

Initial Study for the General Plan Amendment and Rezoning  
of the Bertelsen Property  
18590 Almaden Road, San José; APN 701-62-007  
File No. GP16-002 and C16-007



Prepared for the  
City of San José, Department of Planning, Building, and Code Enforcement

By  
Cypress Environmental and Land Use Planning  
August 2016

## **SECTION 1.0     PROJECT INFORMATION**

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### **1.1     PROJECT TITLE**

Bertelsen Property General Plan Amendment and Rezoning

### **1.2     LEAD AGENCY ADDRESS AND LEAD AGENCY CONTACT**

Lead Agency: City of San José  
City of San José Planning Department  
City Hall  
200 E. Santa Clara Street  
San José, CA 95113  
(408) 535-3500

### **1.3     PROJECT LOCATION**

18590 Almaden Road, located at the southeast corner of Almaden Road and Burnside Drive (Assessor Parcel Number 701-62-007) in the Almaden Valley area of San José.

### **1.4     PROJECT APPLICANT'S NAME AND ADDRESS**

David Bertelsen  
303 Quinnhill Avenue  
Los Altos Hills, CA 94024

### **1.5     GENERAL PLAN LAND USE DESIGNATION AND ZONING DISTRICT**

General Plan Land Use Designation: Rural Residential  
Zoning District: R-1-2

### **1.6     SURROUNDING LAND USES**

North: Single-family residential	South: Single-family residential
East: Single-family residential	West: Arterial roadway, Almaden Expressway, and single-family residential

### **1.7     PROJECT DESCRIPTION**

The proposed project is to amend the General Plan Land Use/Transportation land use designation of an approximately 1.33-acre parcel in residential use from "Rural Residential" land use to "Residential Neighborhood" land use and to rezone the same property from "R-1-2" to "R-1-5." The proposed "Residential Neighborhood" land use designation allows densities of up to 8 dwelling units per acre (DU/AC), a Floor Area Ratio (FAR) range of up to 0.7, and building heights up to 2.5 stories. The "Residential Neighborhood" land use designation is intended to encompass most of the established, single-family residential neighborhoods and new infill development should improve and/or enhance the existing neighborhood conditions by

completing the neighborhood pattern. The proposed project would also rezone the same property from “R-1-2” to “R-1-5,” consistent under the “Residential Neighborhood” land use designation, in order to facilitate a potential future land subdivision consistent with the existing density of surrounding parcels. Based on the location, size, neighborhood pattern and density, the proposed subdivision is anticipated to result in a maximum of three residential lots.

Future development of this site, including subdivisions, will be prepared in the future, pending a decision on the proposed General Plan Amendment.

This Initial Study evaluates the environmental consequences of changing the land use designation of the project property as specified above. Where appropriate, the Initial Study generally discusses the effects of a future residential land division project that would be facilitated by the proposed amendment. However, an application for a residential land division has not been submitted. It would be speculative to analyze all the effects of a future land division project until plans are prepared and submitted to the City.

## **1.8 PROJECT-RELATED APPROVALS AND PERMITS**

General Plan Amendment and Rezoning

## **1.9 HABITAT PLAN DESIGNATION**

Land Cover Designation:	Urban-Suburban
Private Development Area:	Area 4: Urban Development Equal to or Greater than Two Acres
Fee Zone:	None (No land cover fee)
Owl Conservation Zone:	None

## **1.10 ENVIRONMENTAL SETTING**

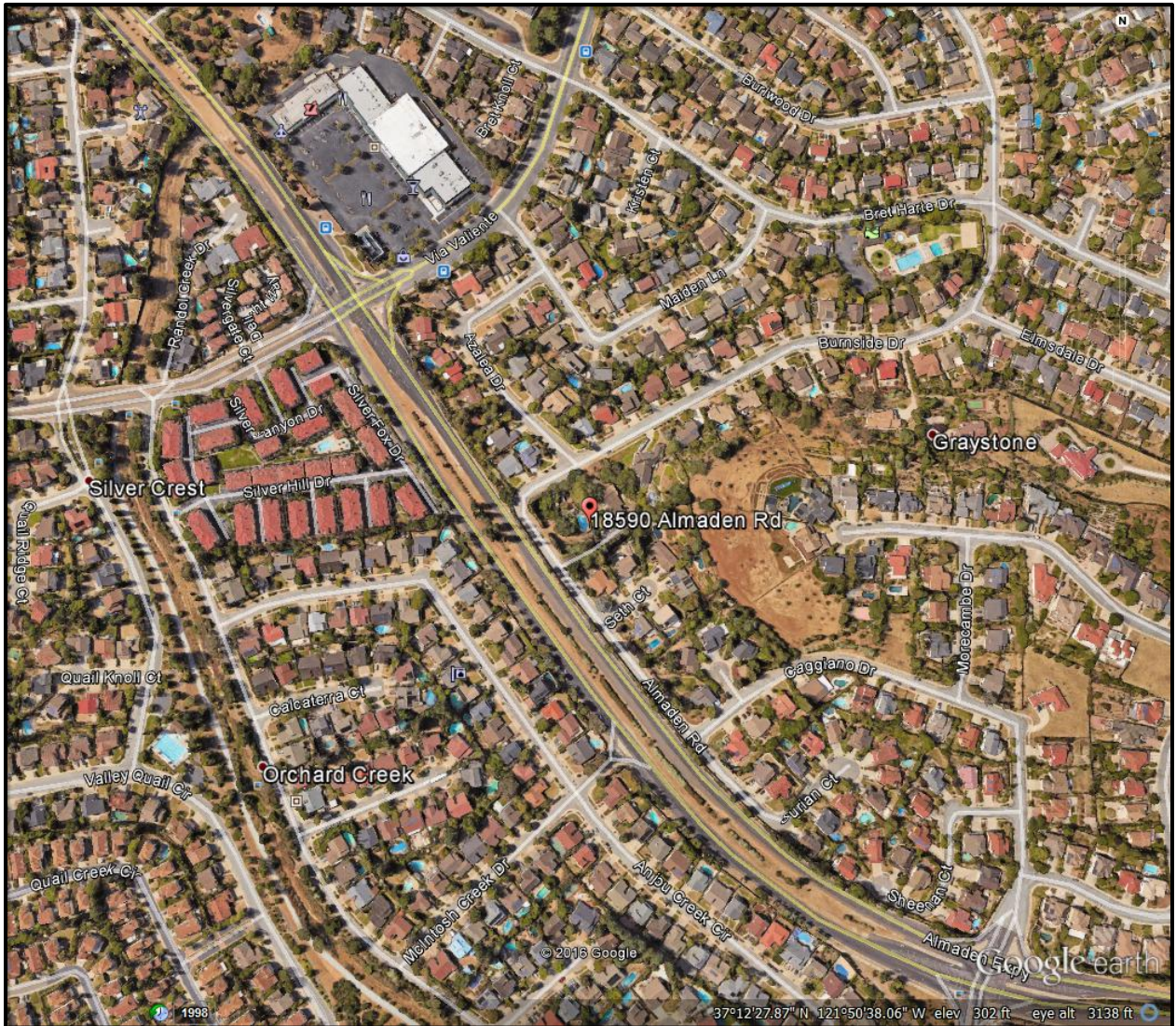
The project property is located in the Almaden Valley portion of the City of San José as shown on Figure 1 (following page). The project site is located at the intersection of Almaden Road and Burnside Drive, as shown by the red dot labeled “18590 Almaden Rd.” Burnside Drive is a collector street and Almaden Road is a local street. The property includes a 3,471-square foot dwelling with a 918-square foot attached garage, a second dwelling of approximately 900-square foot, a swimming pool and several mature trees. A driveway serving the main dwelling is accessed from Almaden Road. This asphalt driveway runs along the southern edge of the property, traversing 116 feet before it connects to 3,920-square foot asphalt parking area. A separate driveway serving the smaller dwelling is accessed from Burnside Drive. A 6-foot high sound wall along the edge of Almaden Expressway separates the neighborhood from direct access to Almaden Expressway.

Each subsection of Section 3, the Environmental Checklist, includes a setting discussion that describes the setting characteristics for the corresponding Checklist topic. For example, existing General Plan and zoning designations are discussed the setting discussion of subsection 3.10, Land Use. Figures 11 and 12 provide maps for the existing designations in the project vicinity.



Figure 1

Vicinity Map



Source: Google Earth



Figure 2

Aerial View of the Project Site and Vicinity



Source: Google Earth



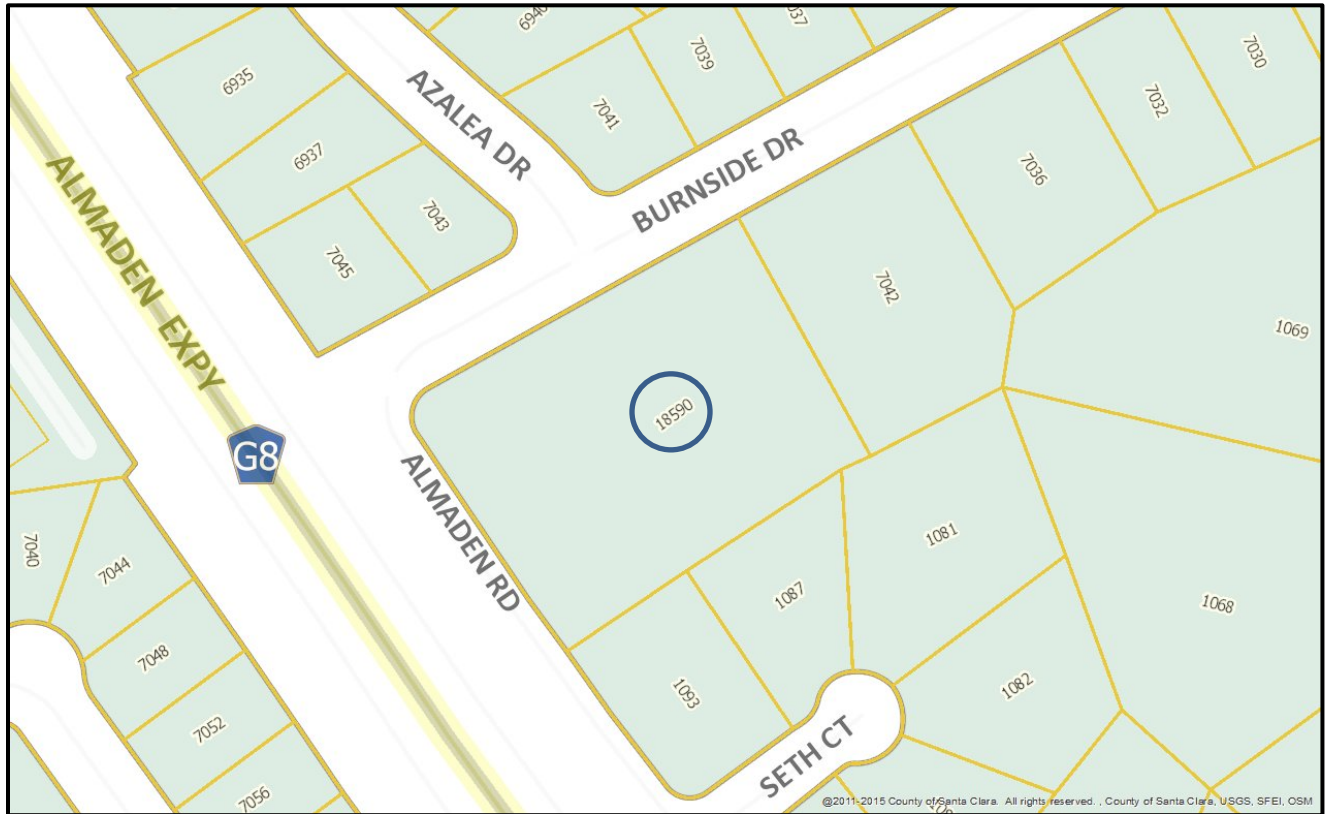
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The 1.3-acre project site is identified by the blue arrow pointing to the middle of the site. A swimming pool is shown at the center of the site. The main dwelling is shown to the right (northeast) of the pool. The visibility of the smaller dwelling is obscured by the tree canopy at the north edge of the parcel.

**Figure 3**

**Parcel Map**



Source: County of Santa Clara, Office of the Tax Assessor



Figure 4

Parcel Map



Source: County of Santa Clara, Office of the Tax Assessor

The project parcel is identified as parcel 7 with the blue arrow pointing to it.

## SECTION 2.0 ENVIRONMENTAL DETERMINATION

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### 2.1 Environmental Factors Potentially Affected

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Aesthetics               | <input type="checkbox"/> Agricultural Resources      | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources     | <input type="checkbox"/> Cultural Resources          | <input type="checkbox"/> Geology/Soils                      |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards/Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality            |
| <input type="checkbox"/> Land Use/Planning        | <input type="checkbox"/> Mineral Resources           | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Population/Housing       | <input type="checkbox"/> Public Services             | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation/Traffic   | <input type="checkbox"/> Utilities/Service Systems   | <input type="checkbox"/> Mandatory Findings of Significance |

### 2.2 Environmental Determination

On the basis of this initial evaluation (completed by the Lead Agency):

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revision in the project could have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and/or 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Agency



## SECTION 3.0 EVALUATION OF ENVIRONMENTAL IMPACTS

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This section describes the existing environmental conditions on and near the project area, as well as environmental impacts associated with the proposed project. The environmental checklist, as recommended in the California Environmental Quality Act (CEQA) Guidelines, identifies environmental impacts that could occur if the proposed project is implemented.

The right-hand column in the checklist lists the source(s) for the answer to each question. The sources cited are identified at the end of this section. Mitigation measures are identified for all significant project impacts. “Mitigation Measures” are measures that will minimize, avoid, or eliminate a significant impact (CEQA Guidelines §15370). Measures that are required by the Lead Agency or other regulatory agency that will reduce or avoid impacts are categorized as “Standard Permit Conditions.”

**Important Note to the Reader:** The California Supreme Court in a December 2015 opinion [*California Building Industry Association v. Bay Area Air Quality Management District*, 62 Cal. 4th 369 (No. S 213478)] confirmed that CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, not the effects the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections focuses on impacts of the project on the environment, including whether a project may exacerbate existing environmental hazards.

The City of San José currently has policies that address existing conditions (e.g., noise) affecting a proposed project, which are also addressed below. This is consistent with one of the primary objectives of CEQA and this document, which is to provide objective information to decision-makers and the public regarding a project as a whole. The CEQA Guidelines and the courts are clear that a CEQA document (e.g., EIR or Initial Study) can include information of interest even if such information is not an “environmental impact” as defined by CEQA.

Therefore, where applicable, in addition to describing the impacts of the project on the environment, this chapter will discuss project effects related to City policies pertaining to existing conditions. Such examples include, but are not limited to, locating a project near sources of air emissions that can pose a health risk or in a high noise environment.

### 3.1 AESTHETICS

#### Setting

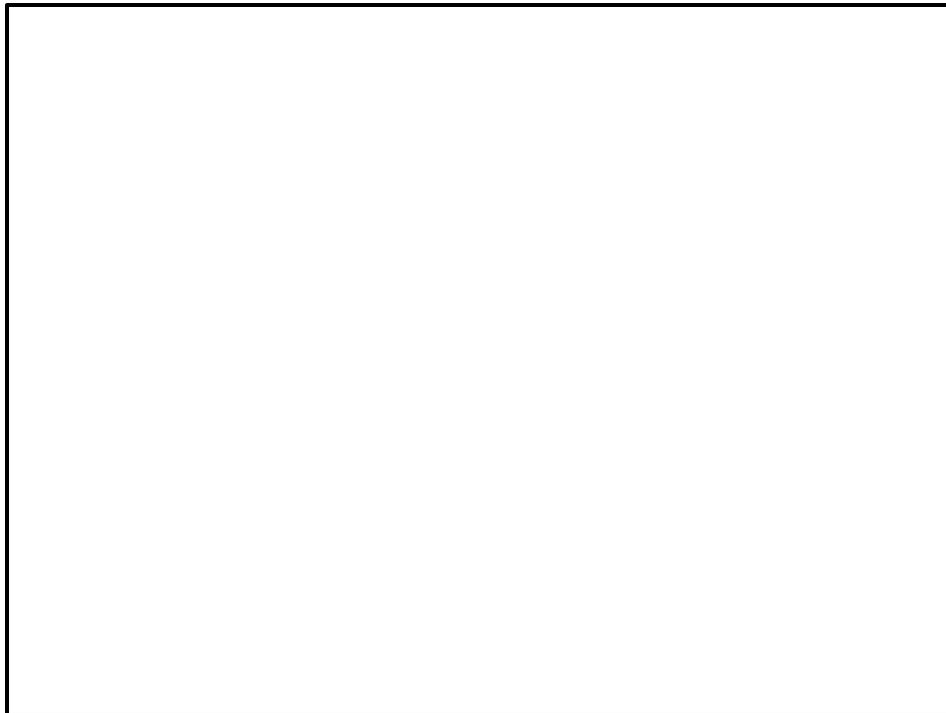
The 1.33-acre project parcel is located within a developed area of the Almaden Valley portion of the City that is dominated by single-family dwellings. Other nearby land uses include Brett Harte Middle School and Leland High School which are both located 0.17 mile (3 blocks) and 0.27 mile (4 blocks) respectively north of the project property. Greystone Elementary School is located 0.19 mile east of the site. Three adjoining large residential parcels with the majority of their property in open space are located 150 feet east of the site midway between the project site and Greystone Elementary School. These parcels are easily identified on “Figure 2. Except for these three parcels which have site areas of 1 acre or more, the project site is the largest parcel in

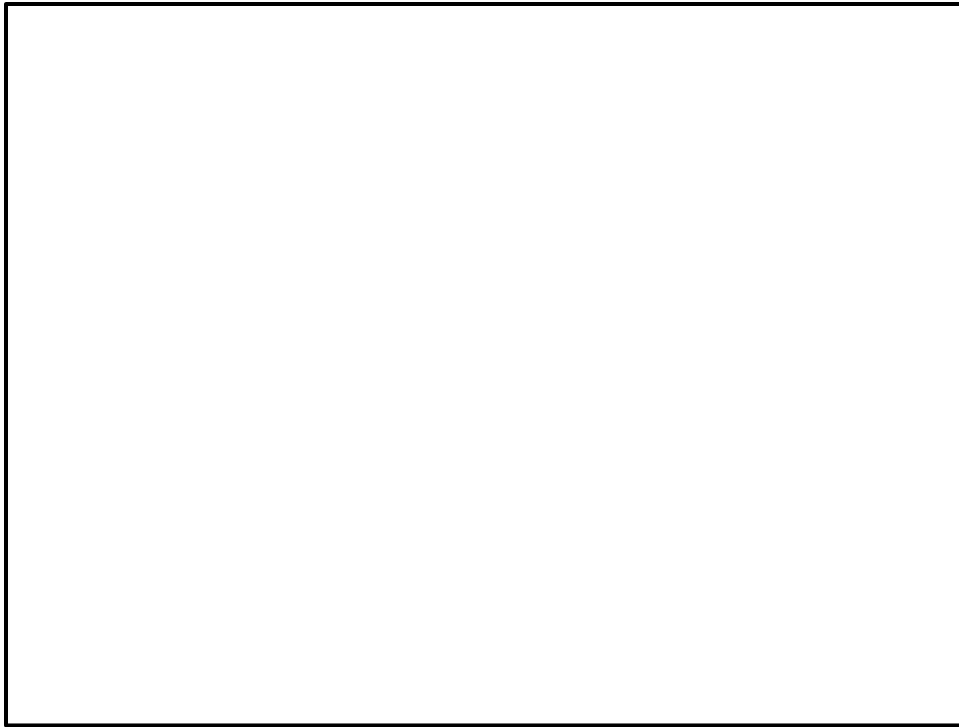
the immediate area. Except for the three schools, the neighborhood is composed of single-family residential use.

The primary visual elements on the site are the two dwellings, a large swimming pool in the center of the property and extensive tree landscaping throughout the site. A rock-lined drainage channel that runs in an east-west direction bisects the site. The large single-family dwelling is located north of the drainage channel. The smaller dwelling and swimming pool are located south of the channel. The large number of mature trees are a noticeable visual element in the neighborhood.

The neighborhood has been developed on a mildly rolling topography. The project property and other properties on Almaden Road are located at the bottom of a slight slope. Properties on Almaden Road have a gentle southward facing slope or are nearly level. The property is located at the intersection of Almaden Road and Burnside Avenue and is very visible from these two streets and from other off-site viewpoints. A 6-foot high sound wall is located along the west edge of Almaden Road. This wall obscures views of Almaden Expressway, its traffic and other land uses to the west. Close-up views of the project site are shown on the following page.

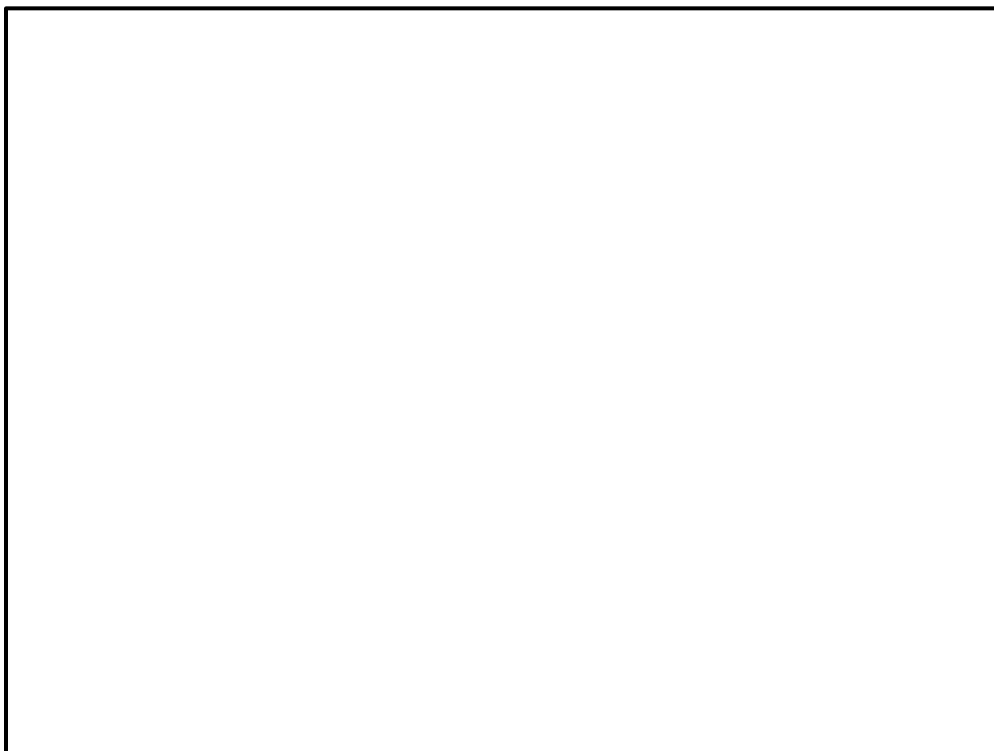
**Figures 5 and 6**  
**Views of the Neighborhood and the Project Parcel**



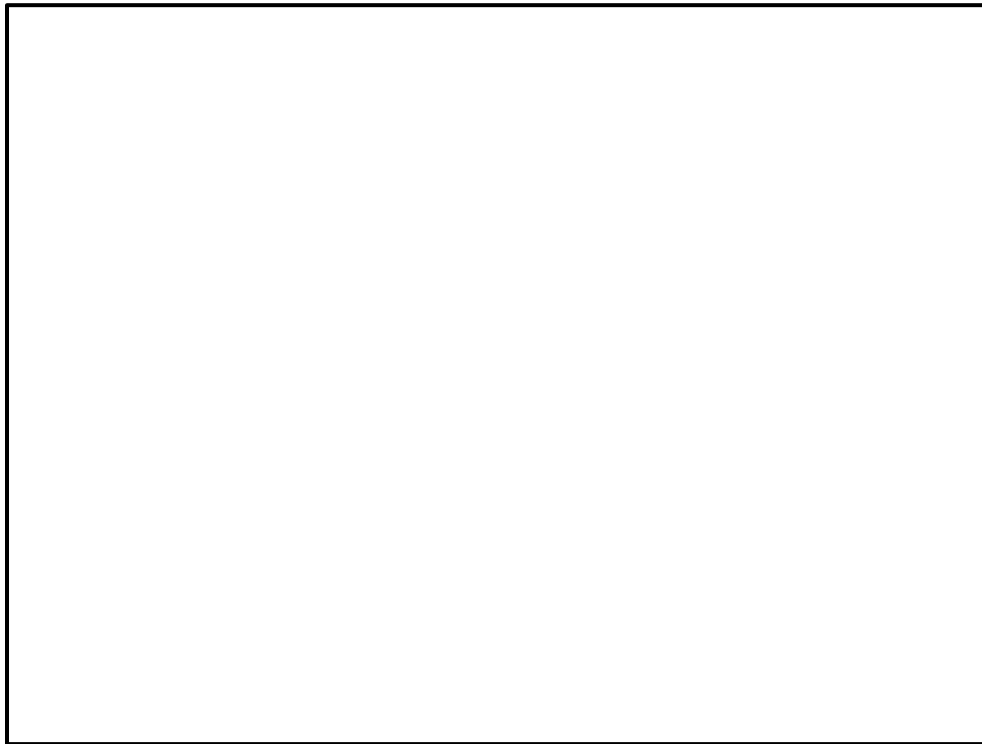


Top: A typical view of the neighborhood--Burnside Ave. properties located a few feet west of the site. Bottom: The center of the project parcel showing the main dwelling and swimming pool.

**Figures 7 and 8**  
**Views of the Project parcel from its Adjoining Streets**







Top: Typical views of the project parcel. Top: Trees and yard space as seen from Almaden Road looking north. Bottom: Smaller dwelling and trees at drainage channel as seen from Burnside Drive.

### **Applicable Plans, Policies, and Regulations**

Various policies in the City's General Plan have been adopted for the purpose of avoiding or mitigating visual and aesthetic impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the visual and aesthetic policies listed in Chapter 4, Goals and Policies, of the City's General Plan, including the following:

*Policy CD-1.1:* Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

*Policy CD-1.8:* Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.

*Policy CD-1.13:* Use design review to encourage creative, high-quality, innovative, and distinctive architecture that helps to create unique, vibrant places that are both desirable urban places to live, work, and play and that lead to competitive advantages over other regions.

In addition to the policies of the Envision San José 2040 General Plan, future development allowed under the proposed land use designations and zoning would be required to comply with the San José Outdoor Lighting Policy (City Council Policy 4-3, as revised 6/20/00) and the Residential Design Guidelines.

### Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2, 3 & 14
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
d. Create a new source of substantial light or glare which will adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

- a. **No impact.** The project site is not located on a scenic landform or within a viewshed of a scenic vista from viewpoints in the City of San José.
- b. **Less than significant impact.** There are more than 68 trees on the subject property. However, changing the General Plan land use designation from its current “Rural Residential” to “Residential Neighborhood,” and rezoning the property from “R-1-2” to “R-1-5” will not result in any loss of these trees. A future land division development proposal may result in removal of some or all trees on the site; but per, Municipal Code, this action would require a tree removal permit if trees with trunks over 56 inches in diameter are removed. Replacement trees would be required depending on the size and number of trees removed. The property does not contain any other scenic resources such as rock outcroppings or historic buildings that are visible beyond the site.
- c. **Less than significant impact.** The large number of mature trees that exist on the subject property could be considered a visual resource for the neighborhood. However, as discussed in subsection “b” above, the proposed General Plan Amendment and Rezoning will not affect the trees. Any future development on this site would require subsequent permits from the City and would be subject to the City’s standards and regulation for tree removal and replacement. . A decorative rock-lined drainage channel traversing the width of the site is a visual amenity; but most of the channel is not visible from off-site views. A land division project could be designed to retain this channel.

Trees are also discussed in the “Biological Resources” section. The drainage channel is discussed in the “Hydrology and Water Quality” section.

- d. No impact.** The proposed General Plan Amendment and Rezoning will not result in any new illumination. Development under the proposed “Residential Neighborhood” land use designation and “R-1-5” Zoning District would comply with the City’s Outdoor Lighting Policy. Therefore, future development of the site under the proposed “Residential Neighborhood” land use designation and “R-1-5” Zoning District would not create a source of substantial light or glare that would affect views in the area.

### 3.2 AGRICULTURAL AND FORESTRY RESOURCES

#### Setting

The project parcel is located within a suburban residential neighborhood in the City of San José. The neighborhood does not include agricultural or forestry uses nor properties zoned for agriculture or timber production.

#### Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 4 & 14
<b>b.</b> Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>c.</b> Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>d.</b> Result in a loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>e.</b> Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or version forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	



## **Impacts Evaluation**

- a. - b. **No Impact.** The subject property is a developed residential property and is surrounded by residential development. There are no agricultural uses or agricultural properties in the area that would be affected by the project.
- c. - d. **No impact.** The subject property is a developed residential property and is surrounded by residentially developed properties. There are no timber production uses nor timber production properties in the area that would be affected by the project.
- e. **No impact.** The subject property is a developed residential property and is surrounded by urban residential development. There are no agricultural or timber production uses nor agricultural or timber production properties in the area that would be affected by the project.

### **3.3            AIR QUALITY**

#### **Setting**

The City of San José is located in the southern portion of the San Francisco Bay Area Air Basin within the boundaries of the Bay Area Air Quality Management District (BAAQMD). New development within the City is regulated by policies and regulations adopted by BAAQMD to maintain air quality standards. The air pollution potential of the basin is high due to a high level of vehicle exhaust emissions and frequent temperature inversions that restrict the vertical mixing of air. The project site is bordered by existing residential uses and is located approximately 350 feet to the east of Meridian Avenue, an arterial street.

The BAAQMD defines sensitive receptors as facilities where sensitive population groups are located, including residences, schools, childcare centers, convalescent homes, and medical facilities. The nearest sensitive receptors are residences that surround the project site.

#### **Applicable Plans, Policies, and Regulations**

The City of San José is within the San Francisco Bay Area Air Quality Management District (BAAQMD). The District is the agency primarily responsible for assuring that the federal and state ambient air quality standards are maintained in the San Francisco Bay Area. Air quality standards are set by the federal government (the 1970 Clean Air Act and its subsequent amendments) and the state (California Clean Air Act of 1988 and its subsequent amendments). Regional air quality management districts such as the BAAQMD must prepare air quality plans specifying how state standards would be met. The BAAQMD's most recently adopted Clean Air Plan (CAP) is the *Bay Area '97 Clean Air Plan*.

The Federal Clean Air Act and the California Clean Air Act mandate the control and reduction of specific air pollutants. Under these Acts, the U.S. Environmental Protection Agency and the

California Air Resources Board have established ambient air quality standards for specific "criteria" pollutants, designed to protect public health and welfare. Primary criteria pollutants include carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM<sub>10</sub>), sulfur dioxide (SO<sub>2</sub>), and lead (Pb). Secondary criteria pollutants include ozone (O<sub>3</sub>), and fine particulate matter.

In connection with the implementation of the CAP, various policies in the General Plan have been adopted for the purpose of avoiding or mitigating air quality impacts from development projects. All future development allowed by the proposed land use designations would be subject to the air quality policies listed in the General Plan, including the following:

*Policy MS-10.1:* Assess projected air emissions from new development in conformance with the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines and relative to state and federal standards. Identify and implement feasible air emission reduction measures.

*Policy MS-10.2:* Consider the cumulative air quality impacts from proposed developments for proposed land use designation changes and new development, consistent with the region's Clean Air Plan and State law.

*Policy MS-11.1:* Require completion of air quality modeling for sensitive land uses such as new residential developments that are located near sources of pollution such as freeways and industrial uses. Require new residential development projects and projects categorized as sensitive receptors to incorporate effective mitigation into project designs or be located an adequate distance from sources of toxic air contaminants (TACs) to avoid significant risks to health and safety.

*Policy MS-11.5:* Encourage the use of pollution absorbing trees and vegetation in buffer areas between substantial sources of TACs and sensitive land uses.

*Policy MS-13.1:* Include dust, particulate matter, and construction equipment exhaust control measures as conditions of approval for subdivision maps, site development and planned development permits, grading permits, and demolition permits. At minimum, conditions shall conform to construction mitigation measures recommended in the current BAAQMD CEQA Guidelines for the relevant project size and type.

*Policy CD-3.3:* Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

*Policy TR-9.1:* Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

In addition to the policies of the City's General Plan, all future development allowed under the proposed land use designations and zoning would be subject to the City's Grading Ordinance, which mandates that all earth moving activities shall include requirements to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.

### **Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3 & 5
<b>b.</b> Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>c.</b> Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>d.</b> Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>e.</b> Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

### **Impacts Evaluation**

- a. Less than significant impact.** Changing the land use designation from its current "Rural Residential" to "Residential Neighborhood," and rezoning from "R-1-2" to "R-1-5" will not result in conflicts with the air quality plan for the City. Based on the size of the project site and neighborhood density, the proposed land use designation and zoning could allow a land division of up to three lots, each with a single-family dwelling in the future. The existing parcel contains two single-family dwellings, so a future land division would only result in a maximum of one additional dwelling units. One additional dwelling will not generate significantly more air emissions than are currently generated.
- b., c. Less than significant impact.** Non-attainment pollutants of concern for the San Francisco Bay Air Basin are ozone, PM10 and PM2.5. The BAAQMD's 2012 CEQA Guidelines (June 2012) make recommendations for evaluation resources, including BAAQMD's CEQA Thresholds Options and Justification Report (2009), which are based on substantial evidence. The City has carefully considered the thresholds prepared by



BAAQMD and regards these thresholds to be based on the best information available for the San Francisco Bay Area Air Basin.

The BAAQMD screening levels are based on project size for air pollutant emissions. The applicable land use category from the BAAQMD's screening criteria tables for the proposed project is "single-family." For operational impacts from criteria pollutants, the screening size is 325 units. For construction impacts, the screening size is 114 units. Based on the approximate size and characteristics of the neighborhood, future development under the "Residential Neighborhood" General Plan designation and "R-1-5" zoning would result in a maximum of three dwelling units (one additional units), which is well below the BAAQMD significance thresholds. Future development on this site under the "Residential Neighborhood" and "R-1-5" zoning district is below the operational and construction criteria pollutant screening threshold and would not result in significant long-term air quality impacts or result in a cumulatively considerable net increase of criteria pollutants for which the region is classified as non-attainment. Therefore, the project is considered to have a less than significant air quality impact.

- d. **Less than significant impact.** The residents surrounding the site are classified as sensitive receptors. The proposed project would not result in a substantial change in the type and intensity of development on this site. Furthermore, any future development under the proposed General Plan Amendment and Rezoning will comply with all City and State building, construction, and demolition regulations and standards during the development stage to minimize potential affects to nearby sensitive receptions. The proposed land use designation and rezoning do not anticipate new type of development and would remain single-family residences, consistent with the surrounding neighborhood.

In addition, 2015 California Supreme Court issued an opinion in the California Building Industry Association vs. Bay Area Air Quality Management District (CBIA vs. BAAQMD) case, CEQA is primarily concerned with the impacts of a project on the Environment and does not require agencies to analyze the impact of existing conditions on project's future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. In light of this ruling, the effect of existing air pollutants from off-site sources on new sensitive receptors introduced by the project would not be considered an impact under CEQA. However, General Plan Policy MS-11.1 requires completion of air quality modeling for new sensitive land uses located near sources of pollution (such as freeways and industrial uses) and the identification of project design measures to avoid significant risks to future residents and users of the project. Even so, the proposed General Plan Amendment and Rezoning would allow the site to develop up to a maximum of approximately three single-family homes. Therefore, the proposed project does not anticipate to result in an exacerbation of risks to new sensitive receptors introduced by the project.

- e. **No impact.** Permitted and conditionally permitted uses in zonings that are consistent with the land use designation of "Residential Neighborhood" and zoning of "R-1-5" are not uses that generate objectionable odors.

**Setting**

The project site is located within an urbanized area of San José that is surrounded by existing development. The site is developed with two single-family dwellings and a swimming pool, and landscaped with several native and non-native mature trees. Vegetation of the project property is best described as an urban planted landscape that includes over 50 mature trees. These trees include the following:

- 27 coast redwood trees (*Sequoia sempervirens*) along three of the property lines.
- 12 palm trees (*Cocos* species) of various species with trunk circumferences ranging from 2 ft.-10 in. to 5 ft.- 0 in. located around the swimming pool and to the rear of the larger dwelling.
- 3 coconut palm trees (*Cocos nucifera*) at rear of the larger dwelling
- 2 California white oak trees (*Quercus lobata*), one a multi-trunked tree with a trunk circumference of 14 ft.- 6 in. located west of the swimming pool. The other with a trunk circumference of 11 ft.- 3 in. located near the north end of the larger dwelling.
- 2 coast live oak trees (*Quercus agrifolia*) with trunk circumferences of 2 ft.-10 in. and 5 ft.- 2 in. located in the southwest corner of the property near the driveway entrance and 4 other coast live oaks located at the southeast corner of the property.
- 2 Douglas fir trees (*Pseudotsuga menziesii*); one located at the southwest corner of the property near the two live oak trees described above and the other located at the southeast corner of the property.
- 2 Arroyo Willows (*Salix lasiolepis*) at the bank of the drainage channel. One willow is a multi-trunked tree, with a trunk circumference of approximately 10 feet.

Except for the palm trees, the trees identified above are all native species. These trees provide nesting and roosting habitat and a food source for a variety of birds and small mammals and therefore are a biotic resource for wildlife. The size of some of the trees qualifies them as protected by City ordinance. This issue is discussed later in this subsection.

**Applicable Plans, Policies, and Regulations**

Biological resources include plants and animals and the habitats that support them. Individual plant and animal species that are listed as rare, threatened or endangered under the state and/or federal Endangered Species Act, and the natural communities or habitats that support them, are of particular concern. Sensitive natural communities (e.g., wetlands, riparian woodlands, and oak woodland) that are critical to wildlife or ecosystem function are also important biological resources.

The avoidance and mitigation of significant impacts to biological resources under CEQA is consistent with and complementary to various federal, state, and local laws and regulations that are designed to protect these resources. Many of these regulations mandate that project sponsors obtain permits that include measures to avoid and/or mitigate impacts, prior to the

commencement of development activities. Table 2 summarizes laws and regulations applicable to the proposed project.

**Table 1: Regulation of Biological Resources**

<b>Law/Regulation</b>	<b>Objective(s)</b>	<b>Responsible Agencies</b>
Federal Endangered Species Act California Endangered Species Act	Protect endangered species and their habitat and, ultimately restore their numbers to where they are no longer threatened or endangered.	USFWS, NOAA Fisheries CDFW
Federal Migratory Bird Treaty Act California Fish & Game Code Section 3503.5	Protect migratory birds, including their nests & eggs. Protect birds of prey, including their nests & eggs.	USFWS CDFW

NOAA = National Oceanic & Atmospheric Administration

USFWS = U.S. Fish & Wildlife Service

CDFG = California Department of Fish & Wildlife

In addition to the laws and regulations listed above, various policies in the City's Envision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating biological impacts resulting from planned development within the City. All future development allowed by the proposed land use designations and zoning would be subject to the biological policies listed in the City's General Plan, including, but is not limited to, the following:

*Policy ER-4.4:* Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.

*Policy ER-5.1:* Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

*Policy ER-5.2:* Require that development projects incorporate measures to avoid impacts to nesting migratory birds.

*Policy MS-21.4:* Encourage the maintenance of mature trees, especially natives, on public and private property as an integral part of the community forest. Prior to allowing the removal of any mature tree, pursue all reasonable measures to preserve it.

*Policy MS-21.5:* As part of the development review process, preserve protected trees (as defined by the Municipal Code), and other significant trees. Avoid any adverse effects on the health and longevity of protected or other significant trees through appropriate design measures and construction practices. Special priority should be given to the preservation of native oaks and native sycamores. When tree preservation is not feasible, include appropriate tree replacement, both in number and spread of canopy.



*Policy MS-21.6:* As a condition of new development, require, where appropriate, the planting and maintenance of both street trees and trees on private property to achieve a level of tree coverage in compliance with and that implements City laws, policies or guidelines.

*Policy MS-21.8:* For Capital Improvement Plan or other public development projects, or through the entitlement process for private development projects, require landscaping including the selection and planting of new trees to achieve the following goals:

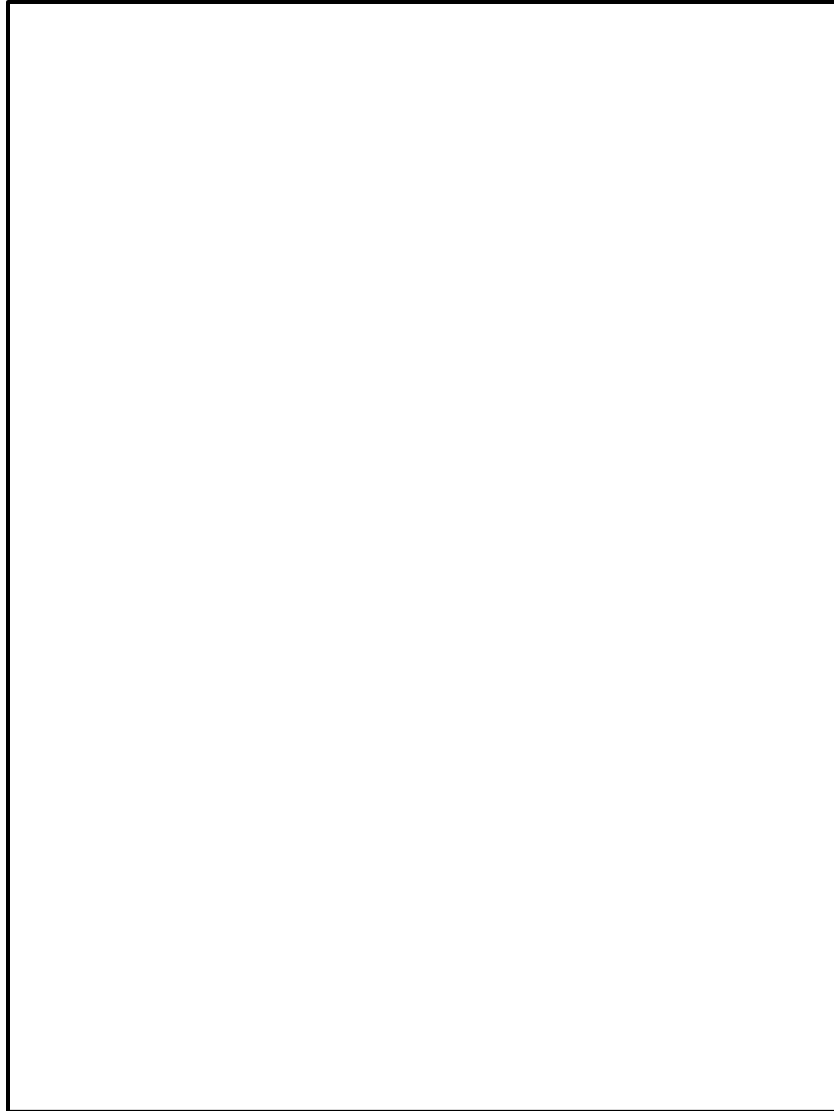
1. Avoid conflicts with nearby power lines.
2. Avoid potential conflicts between tree roots and developed areas.
3. Avoid use of invasive, non-native trees.
4. Remove existing invasive, non-native trees.
5. Incorporate native trees into urban plantings in order to provide food and cover for native wildlife species.
6. Plant native oak trees and native sycamores on sites which have adequately sized landscape areas and which historically supported these species.

*Policy CD-1.24:* Within new development projects, include preservation of ordinance-sized and other significant trees, particularly natives. Any adverse effect on the health and longevity of such trees should be avoided through design measures, construction, and best maintenance practices. When tree preservation is not feasible include replacements or alternative mitigation measures in the project to maintain and enhance our Community Forest.

The City of San José has adopted *Envision San José 2040 General Plan* policies MS-21.1 through MS-21.6 to promote tree preservation and provide a “community forest.” The City has also adopted a Tree Removal Controls Ordinance (Municipal Code Chapter 13.32) to protect existing native and non-native trees by making it unlawful to remove trees with a trunk circumference of 56 inches (4 ft.- 8 in.) or greater without a permit and to provide for tree replacement when a tree removal permit is approved. In addition, the Ordinance includes a classification of “Heritage Tree” as any tree that due to its history, girth or unique quality is designated by the City Council for special protection.

The property contains, at least 7 trees, with trunk circumferences exceeding 56 inches. Some of these large trees also qualify as “Heritage Trees” due to their large size. (See Figure 9). The large willows at the drainage channel are riparian species that are indicative of riparian habitat which is a habitat protected by California Fish and Game Code.

**Figure 9**  
**California White Oak Near Main Dwelling on Project Parcel**



Deciduous white oak tree with trunk circumference of 11 ft.-3 in. (Photo taken in dormant season.) Some other trees on the site are shown in Figures 6--8 in Subsection 3.1, Aesthetics.

## Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3, 4, 5 & 6
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

## Impacts Evaluation

- a. **Less than significant impact.** The current project site is located in a suburban area with two single-family residences. The project will not result in any habitat modifications, but rather is a request to amend the General Plan to change the current land use designation of "Rural Residential" to "Residential Neighborhood" and change the zoning from "R-1-2" to "R-1-5." Any future development of the site could result in the removal of mature

trees that serve as habitat for nesting raptors and other migratory birds. However, the implementation of General Plan Policies ER-4.4, ER-5.1, and ER-5.2 (listed above), which call for surveys and implementation of protection measures for special status species (particularly migratory birds), will reduce potential impacts to a less than significant level. In conformance with the California State Fish and Game Code, the provisions of the Migratory Bird Treaty Act, and General Plan policies ER-5.1 and ER-5.2, future development under the proposed land use designation would be required to implement measures to avoid and/or reduce impacts to nesting birds (if present on or adjacent to the site) to a less than significant level. Potential measures include the following:

- If possible, construction shall be scheduled between September and January (inclusive) to avoid the raptor nesting season. If this is not possible, preconstruction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between February and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), preconstruction surveys shall be conducted no more than 30 days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests.
  - If an active nest is found in an area or close enough to the construction area to be disturbed by these activities, the ornithologist shall designate an adequate buffer zone to be established around the nest, in consultation with the California Department of Fish and Wildlife (CDFW). The buffer would ensure that nests shall not be disturbed during project construction.
- b. No impact.** The 1.33-acre project parcel is located within a developed area of the Almaden Valley portion of the City that is dominated by single-family dwellings. Other nearby land uses include the three schools discussed in Section 3.1. There are no wetlands or other special status habitats on the site or within the neighborhood that could be affected by development on the project property. While future development could include filling of the drainage channel, the channel is not a natural waterway nor one that supports aquatic wildlife or extensive riparian habitat.
- c. No impact.** The project is in an urbanized area away from any federally protected wetlands.
- d. Less than significant impact.** The project will not substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. As discussed in “a” above, any future development activities will comply with General Plan Policies for the purpose of protecting nesting raptors and other migratory birds.
- e. Less than significant impact.** A substantial number of mature trees (over 50) occur on the property, some of which qualify as protected trees under Municipal Code Chapter

13.28. The City of San José has established regulations for removal of landscape trees at least 56 inches in circumference measured two feet above grade. Prior to any future development of the site, the project applicants will be required to obtain a permit for the removal of ordinance-sized trees and provide for the replacement of removed trees in conformance with the City of San José Tree Ordinance. Replacement trees will be over and above the regular landscaping to be provided on the site.

- f. **No impact.** The project site is located within the boundaries of the Santa Clara Valley HCP. The project does not affect any HCP land cover types or covered species. Any future development on the site under the proposed land use designation and zoning is within the Santa Clara Valley Habitat Plan area and would be subject to Habitat Plan, in addition to General Plan, policies. In compliance with the Habitat Plan and General Plan policies, future development under the proposed land use designation would be required to implement the following measure:

- The project applicant shall pay all applicable fees (including nitrogen deposition fee) prior to issuance of a grading permit.

In compliance with General Plan policies and the Habitat Plan, future development of the project site under the proposed land use designation would be required to implement the measure listed above and, therefore, would not conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

### 3.5 CULTURAL RESOURCES

#### Setting

Two dwellings, a swimming pool, a decorative drainage channel and substantial landscaping, all for residential use, currently exist on the site. The project is located within a mapped archeologically-sensitive area, but is not located near any creeks or riparian areas where archeological remains are most likely to occur.

#### **Applicable Plans, Policies, and Regulations**

Section 15064.5 of the State CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on nonfederal land. These procedures are outlined in PRC Sections 5097 and 5097.98. These codes protect such remains from disturbance, vandalism, and inadvertent destruction, establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project, and establish the Native American Heritage Commission (NAHC) as the authority to resolve disputes regarding disposition of such remains.

The California Native American Historical, Cultural and Sacred Sites Act applies to both State and private lands. The Act requires that upon discovery of human remains, construction or excavation activity cease and the county coroner be notified. If the remains are of a Native American, the coroner must notify the NAHC. The NAHC then notifies those persons most



likely to be related to the Native American remains. The Act stipulates the procedures that the descendants may follow for treating or disposing of the remains and associated grave goods.

Various policies in the City's *Envision San José 2040 General Plan* have been adopted for the purpose of reducing or avoiding impacts related to cultural resources, as listed below:

*Policy ER-10.1:* For proposed development sites that have been identified as archaeologically or paleontologically sensitive, require investigation during the planning process in order to determine whether potentially significant archaeological or paleontological information may be affected by the project and then require, if needed, that appropriate mitigation measures be incorporated into the project design.

*Policy ER-10.2:* Recognizing that Native American human remains may be encountered at unexpected locations, impose a requirement on all development permits and tentative subdivision maps that upon discovery during construction, development activity will cease until professional archaeological examination confirms whether the burial is human. If the remains are determined to be Native American, applicable state laws shall be enforced.

*Policy ER-10.3:* Ensure that City, State, and Federal historic preservation laws, regulations, and codes are enforced, including laws related to archaeological and paleontological resources, to ensure the adequate protection of historic and pre-historic resources.

### **Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Cause a substantial adverse change in the significance of an historical resource as defined in §15063.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2 & 3
<b>b.</b> Cause a substantial adverse change in the significance of an archaeological resource as defined in §15063.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>c.</b> Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>d.</b> Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

### **Impacts Evaluation**

- a. No impact.** The existing structures were built as single-family residences in the 1960's. Neither structure is listed on the City's Historic Resources Inventory.

**b.-d. Less than significant impact.** The proposed General Plan Amendment to change the current land use designation of “Rural Residential” to “Residential Neighborhood” and the associated Rezoning from “R-1-2” to “R-1-5” will not result in any excavation or other forms of development; and, therefore will not have a potential to affect cultural resources. However, any future development on this site will be required to adhere to Envision San Jose 2040 General Plan Policies ER-10.1, ER-10.2 and ER-10.3 (above) and Standard Project Conditions for the discovery of potential resources and human remains. In accordance with Envision San José 2040 General Plan Policies ER-10.1, ER-10.2 and ER-10.3, the following measures will apply to future development of the site under the proposed land use designation and zoning in order to reduce or avoid impacts to subsurface cultural such as archaeological resources, paleontological resources, and human remains:

- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and the archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.
- In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.
- If vertebrate fossils are discovered during construction, all work on the site shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent will be responsible for implementing the recommendations of the paleontological monitor.

Implementation of measure above in accordance with General Plan policies will ensure future development of the site with residential uses will not significantly impact cultural resources.

**Environmental Setting**

The project site is located in northern Santa Clara Valley, which is bounded by the Diablo Range to the east and the Santa Cruz Mountains to the west. The topography of the project site is an artificially created gentle west facing slope that was created several years ago by grading into a steeper west facing slope. This grading created a cut and fill pad to construct the larger dwelling. A steep slope remains at the east edge of the property. It is supported by a retaining wall located directly to the rear (east) of the main dwelling and the paved parking area.

The site is located in a region that contains active earthquake faults, including the San Andreas, Hayward, and Calaveras. The project site is also located in the Liquefaction Hazard Zone, State Seismic Hazard Zone, and the Santa Clara County Geologic Hazard Zone. However, the site is not located within a Fault Rupture Hazard Zone, Landslide Hazard Zones, Dike Failure Flooding Hazard Zone, or State Fault Zone.

**Applicable Plans, Policies, and Regulations**

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating geology and soil impacts resulting from planned development within the City. All future development allowed by the proposed land use designations would be subject to the geology and soil policies listed in the Envision San José 2040 General Plan, including the following:

*Policy EC-3.1:* Design all new or remodeled habitable structures in accordance with the most recent California Building Code and California Fire Code as amended locally and adopted by the City of San José, including provisions regarding lateral forces.

*Policy EC-3.2:* Within seismic hazard zones identified under the Alquist-Priolo Fault Zoning Act, California Seismic Hazards Mapping Act and/or by the City of San José, complete geotechnical and geological investigations and approve development proposals only when the severity of seismic hazards have been evaluated and appropriate mitigation measures are provided as reviewed and approved by the City of San José Geologist. State guidelines for evaluating and mitigating seismic hazards and the City-adopted California Building Code will be followed.

*Policy EC-4.1:* Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

*Policy EC-4.2:* Development in areas subject to soils and geologic hazards, including unengineered fill and weak soils and landslide-prone areas, only when the severity of hazards have been evaluated and if shown to be required, appropriate mitigation

measures are provided. New development proposed within areas of geologic hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. The City of San José Geologist will review and approve geotechnical and geological investigation reports for projects within these areas as part of the project approval process.

*Policy EC-4.4:* Require all new development to conform to the City of San José's Geologic Hazard Ordinance.

*Policy EC-4.5:* Ensure that any development activity that requires grading does not impact adjacent properties, local creeks and storm drainage systems by designing and building the site to drain properly and minimize erosion. An Erosion Control Plan is required for all private development projects that have a soil disturbance of one acre or more, are adjacent to a creek/river, and/or are located in hillside areas. Erosion Control Plans are also required for any grading occurring between October 15 and April 15.

*Policy EC-4.7:* Consistent with the San José Geologic Hazard Ordinance, prepare geotechnical and geological investigation reports for projects in areas of known concern to address the implications of irrigated landscaping to slope stability and to determine if hazards can be adequately mitigated.

*Action EC-4.11:* Require the preparation of geotechnical and geological investigation reports for projects within areas subject to soils and geologic hazards, and require review and implementation of mitigation measures as part of the project approval process.

*Action EC-4.12:* Require review and approval of grading plans and erosion control plans (if applicable) prior to issuance of grading permits by the Director of Public Works.

## **Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					1, 2, 3, 4 & 7
1. Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
d. Be located on expansive soil, as defined in Section 1802.3.2 of the California Building Code (2007), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

### **Impacts Evaluation**

**a.1-4,c,d. Less than significant impact.** The site is not located in close proximity to any known earthquake fault. The site is located within the seismically active San Francisco Bay region, and is mapped as within a Geologic Hazard Zone and Liquefaction Zone. Municipal Code and California Building Code (CBC) regulations require that the building be designed and built in conformance with the requirements of the 1997 Uniform Building Code for Seismic Zone 4. Most of the site contains a moderate west-facing slope. A small portion of the site at the east edge has a steep slope, but this slope is supported by a retaining wall.

Accordance with the City's General Plan policies and actions and the City's Municipal Code, any future development of the site will require conformance review to City's standards and regulations. Building design and construction of any future development/project at the site will be completed in conformance with the recommendations of a design-level geotechnical investigation, which will be included in a report to the City. The structural designs for the proposed future development will account for repeatable horizontal ground accelerations. The report shall be reviewed and approved by the City of San José's Building Division as part of the building permit review and prior to any permit issuance to ensure development is in conformance with safety codes. The buildings shall also meet the requirements of applicable Building and Fire Codes, including the 2014 California Building Code Chapter 16, Section 1613, as adopted or updated by the City.

**b. Less than significant impact.** Any development in conformance with the proposed General Plan land use and zoning district designations will require demolition, pavement



removal, and grading that could result in a temporary increase in erosion. This increase in erosion is expected to be minor due to the small size of the portion of the site available for the development of new dwellings. The steep portion of the site at the east edge of the parcel is not large enough for any future development; and therefore this portion of the site is expected to remain in its current condition. The project will implement the standard project conditions for erosion control during construction. Future construction activities would be subject to the requirements of City's policies and regulations and, therefore, the future development would have a less than significant soil erosion impact.

- e. **No impact.** The project site does not include any septic systems. Future development would connect to the City's existing sanitary sewer system. Therefore, future development of the project site under the proposed land use designation will not require septic tanks or alternative wastewater disposal systems.

### 3.7 GREENHOUSE GAS EMISSIONS

#### Setting

Various gases in the earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the earth's surface temperature. Solar radiation enters the atmosphere from space and a portion of the radiation is absorbed by the earth's surface. The earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation. Greenhouse gases, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect, or climate change, are carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), ozone (O<sub>3</sub>), water vapor, nitrous oxide (N<sub>2</sub>O), and chlorofluorocarbons (CFCs). Human-caused emissions of these GHGs in excess of natural ambient concentrations are responsible for enhancing the greenhouse effect. In California, the transportation sector is the largest emitter of GHGs, followed by electricity generation.

#### Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3 & 4
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

## **Impacts Evaluation**

**a.,b. Less than significant impact.** The Bay Area Air Quality Management District (BAAQMD) developed screening criteria for GHG emissions in their 2011 CEQA Air Quality Guidelines based on the Urban Land Use Emissions Model (URBEMIS). Projects below the applicable screening criteria would not exceed the 1,100 metric tons (MT) of CO<sub>2</sub> per year threshold of significance for GHG emissions. The proposed General Plan Amendment to “Residential Neighborhood” would allow up to 8 dwelling unit per acre as long as it conforms to the neighborhood pattern. The “R-1-5” zoning district would allow for a maximum of 5 dwelling unit per acre or to the prevailing density of the neighborhood. Based on the location, size, and neighborhood density of the site, future lot subdivision for future development of the site under the proposed General Plan land use and zoning district designations would allow a maximum of three single-family residences on the site. For single-family developments, the applicable screening criteria is 56 dwelling units. The maximum development allowed under the proposed “Residential Neighborhood” designation is 8 dwelling units per acre, or a density consistent with the surrounding neighborhood. Based on the size and layout of the parcel and the density of the surrounding neighborhood, development at the maximum density would result in up to three single-family residences. This is significantly below BAAQMD’s GHG screening criteria for single-family residential developments, which is 56 units. Therefore, the project will not result in a significant increase in GHG emissions. The project will not conflict with any other applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases. Future development will comply with Envision San José 2040 General Plan Policies established for the purpose of reducing GHG emissions.

### **3.8 HAZARDS AND HAZARDOUS MATERIALS**

#### **Setting**

The project site is currently occupied by two single-family dwellings. The site is located in a predominately residential area and surrounded by single-family houses. Like most of the Santa Clara Valley, the site was likely used for agricultural purposes prior to being developed with a single-family houses in the 1960s. The site is not listed on any local, statewide, or federal hazardous materials databases. There are no listed hazardous sites in the immediate area.

#### **Applicable Plans, Policies, and Regulations**

Hazardous materials encompass a wide range of substances, some of which are naturally-occurring and some of which are manmade. Examples include pesticides, herbicides, petroleum products, metals (e.g., lead, mercury, arsenic), asbestos, and chemical compounds used in manufacturing. Determining if such substances are present on or near project sites is important because, by definition, exposure to hazardous materials above regulatory thresholds can result in adverse health effects on humans, as well as harm to plant and wildlife ecology.

<b>Table 2: Regulation of Hazardous Materials</b>	
<b>Agency</b>	<b>Responsibilities</b>
U.S. Environmental Protection Agency (EPA)	Oversees Superfund sites; evaluates remediation technologies; develops standards for hazmat disposal & cleanup of contamination; implements Clean Air & Clean Water Acts.
U.S. Department of Transportation (DOT)	Regulates and oversees the transportation of hazardous materials.
U.S. Occupational Safety & Health Administration (OSHA)	Implements federal regulations and develops protocol regarding the handling of hazmat for the protection of workers.
CA Department of Toxic Substances Control (DTSC)	Authorized by EPA to implement & enforce various federal hazmat laws & regulations; implements state hazmat regulations; oversees remediation of contamination at various sites.
CA Occupational Safety & Health (Cal-OSHA)	Implements state regulations and develops protocol regarding the handling of hazmat for the protection of workers.
CA Air Resources Board/Bay Area Air Quality Management District (BAAQMD)	Regulates emissions of toxic air contaminants & requires public dissemination information regarding the risk of such emissions.
CA Water Resources Control Board/Regional Water Quality Control Board (RWQCB)	Regulates the discharge of hazmat to surface and ground waters; oversees remediation of contamination at various sites.
Santa Clara County Department of Environmental Health (SCCDEH)	Oversees & enforces state/local regulations pertaining to hazardous waste generators and risk management programs, including the California Accidental Release Program.
City of San José Fire Department (SJFD)	Implements City's Toxic Gas and Hazardous Material Storage Ordinances; requires businesses that use or store hazmat to prepare a management plan; regulates installation & removal of above- and below-ground storage tanks; reviews plans for compliance with the Uniform Fire and the Flammable & Combustible Liquids Codes.

Due to the fact that these substances have properties that are toxic to humans and/or the ecosystem, there are multiple regulatory programs in place that are designed to minimize the chance for unintended releases and/or exposures to occur. Table 2 summarizes many of these regulations.

In addition to the above regulations, various policies in the Enivision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating hazards and hazardous materials impacts resulting from planned development within the City. All future development allowed by the proposed land use designation changes will be subject to the hazards and hazardous materials policies of the Envision San José 2040 General Plan, including the following:

*Policy MS-13.2:* Construction and/or demolition projects that have the potential to disturb asbestos (from soil or building material) shall comply with all the requirements of the California Air Resources Board's air toxics control measures (ATCMs) for Construction, Grading, Quarrying, and Surface Mining Operations.

*Policy EC-7.1:* For development and redevelopment projects, require evaluation of the proposed site's historical and present uses to determine if any potential environmental conditions exist that could adversely impact the community or environment.

*Policy EC-7.2:* Identify existing soil, soil vapor, groundwater and indoor air contamination and mitigation for identified human health and environmental hazards to future users and provide as part of the environmental review process for all development and redevelopment projects. Mitigation measures for soil, soil vapor and groundwater contamination shall be designed to avoid adverse human health or environmental risk, in conformance with regional, state and federal laws, regulations, guidelines and standards.

*Policy EC-7.4:* On redevelopment sites, determine the presence of hazardous building materials during the environmental review process or prior to project approval. Mitigation and remediation of hazardous building materials, such as lead-paint and asbestos-containing materials, shall be implemented in accordance with state and federal laws and regulations.

*Policy EC-7.5:* On development and redevelopment sites, require all sources of imported fill to have adequate documentation that it is clean and free of contamination and/ or acceptable for the proposed land use considering appropriate environmental screening levels for contaminants. Disposal of groundwater from excavations on construction sites shall comply with local, regional, and state requirements.

*Action EC-7.10:* Require review and approval of grading, erosion control and dust control plans prior to issuance of a grading permit by the Director of Public Works on sites with known soil contamination. Construction operations shall be conducted to limit the creation and dispersion of dust and sediment runoff.

*Action EC-7.11:* Require sampling for residual agricultural chemicals, based on the history of land use, on sites to be used for any new development or redevelopment to account for worker and community safety during construction. Mitigation to meet appropriate end use such as residential or commercial/industrial shall be provided.

## Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	7
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, will it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
f. For a project within the vicinity of a private airstrip, will the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
g. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

## Impacts Evaluation

- a., b. Less than significant impact.** The area around the project site has a history of agricultural uses, and therefore soils may contain residual pesticides and herbicides.



Furthermore, the existing main dwelling structure was constructed in 1966 and the smaller dwelling was estimated to have been constructed earlier. One or both may contain asbestos and/or lead based paint. Future development of the project site with residential uses would not result in hazardous materials being transported, used, or disposed of in such quantities to result in a significant hazard to the public. The historical agricultural use of this property may pose an environmental concern as on-site soils could be contaminated with residual agricultural pesticides and/or pesticide based metals (arsenic and lead). In accordance with General Plan Policy EC-7.11, future development of the project site under the proposed land use designation will require soil samples to be collected and analyzed for organochloridine pesticides (OCPs) using appropriate methodologies. The General Plan Amendment and Rezoning would not require result in significant impact to the hazards and hazardous materials. However, any future development of the site in accordance with the proposed “Residential Neighborhood” Envision San José 2040 General Plan land use designation and “R-1-5” zoning district designation will be required to comply with Envision San José 2040 General Plan policies for the evaluation, remediation, and transport of any hazardous substances, particularly Policies MS-13.2, EC-7.1, EC-7.2, EC-7.5, EC-7.10, and EC-7.11 (listed above).

Furthermore, in conformance with State and Local laws, a visual inspection/pre-demolition survey, and possible sampling, will be conducted prior to the demolition of on-site structures to determine the presence of asbestos-containing materials and/or lead-based paint. Demolition done in conformance with these Federal, State and Local laws and regulations, will avoid significant exposure of construction workers and/or the public to asbestos and lead-based paint. Compliance with these policies will reduce any potential on site hazards to a less than significant level.

- c. **Less than significant impact.** The site is located 0.17 mile (898 ft.) from Brett Haarte Middle School, 0.27 mile (1,426 ft.) from Leland High School and 0.19 mile (1,003 ft.) from Greystone Elementary School. As discussed in the response to checklist items “a” and “b” above, any future development of the site will be required to comply with Envision San José 2040 Policies for the evaluation, remediation, and transport of hazardous materials.
- d. **No impact.** The project is not currently included on the State Department of Toxic Substance Control’s (DTSC) Hazardous Waste and Substances Site List (Cortese List), nor is the site listed on other federal, state or local hazardous materials databases.
- e. - f. **No impact.** The project site is not located within the boundaries of an airport land use plan, and is not located within two miles of any public use airport or private airstrip.
- g. **No impact.** The project will not impair implementation or physically interfere with an adopted emergency evacuation plan or emergency response plan, as any future development will be required to comply with San José Fire Department Requirements.
- h. **No impact.** The site is not located within the urban/wildland interface and is surrounded by existing urban development.

**Setting**

There are no waterways present on the project site or immediate vicinity. Alamitos Creek is located 0.64 mile east and north of the property. A concrete and rock-lined drainage channel bisects the site running in an east—west direction. Two bridges span this channel. One bridge is a segment of the driveway that serves the main house. The other bridge is for pedestrian purposes allowing pedestrian access the swimming pool from the main house. The semi-trapezoidal channel has a uniform 9-foot width at the top. It is approximately 5 feet deep. The property owner states this drainage way was constructed for decorative purposes. However, the sides of the channel include the discharge end of subsurface drainage pipes, which typically indicates subsurface water needs to be collected and discharged into a surface drainage way or other water body. A connection of the channel to another water body was not observed during site inspection.

According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), the project site is located within Flood Zone D, indicating that the property is not in a 100-year or a 500-year flood zone.

**Applicable Plans, Policies, and Regulations**

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating hydrology impacts resulting from planned development within the City. All future development allowed by the proposed land use designation changes will be subject to the hydrology policies of the Envision San José 2040 General Plan, including the following:

*Policy ER-8.1:* Manage stormwater runoff in compliance with the City's Post-Construction Urban Runoff (6-29) and Hydromodification Management (8-14) Policies.

*Policy ER-8.3:* Ensure that private development in San José includes adequate measures to treat stormwater runoff.

*Policy ER-8.4:* Assess the potential for surface water and groundwater contamination and require appropriate preventative measures when new development is proposed in areas where storm runoff will be directed into creeks upstream from groundwater recharge facilities.

*Policy ER-8.5:* Ensure that all development projects in San José maximize opportunities to filter, infiltrate, store and reuse or evaporate stormwater runoff onsite.

**Figure 10**  
**Concrete and Rock-lined Drainage Channel**



An eastward view of the concrete and rock-lined drainage channel that traverses the width of the property. The driveway bridge is in the background.

*Policy ER-9.2:* In consultation with the SCVWD restrict or carefully regulate public and private development in upland areas to prevent uncontrolled runoff that could impact the health and stability of streams.

*Policy EC-4.1:* Design and build all new or remodeled habitable structures in accordance with the most recent California Building Code and municipal code requirements as amended and adopted by the City of San José, including provisions for expansive soil, and grading and storm water controls.

*Policy EC-5.7:* Allow new urban development only when mitigation measures are incorporated into the project design to ensure that new urban runoff does not increase flood risks elsewhere.

*Action EC-5.16:* Implement the Post-Construction Urban Runoff Management requirements of the City's Municipal NPDES Permit to reduce urban runoff from project sites.

*Policy IN-3.9:* Require developers to prepare drainage plans that define needed drainage improvements for proposed developments per City standards.

In addition to the policies above, future development of the site will be required to comply with two City Council Policies on stormwater runoff and modification. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects, while the City's Post-Construction Hydromodification Management Policy (8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects.

### **Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3 & 5
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there will be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells will drop to a level which will not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which will result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which will result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
e. Create or contribute runoff water which will exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
g. Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
h. Place within a 100-year flood hazard area structures which will impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

### **Impacts Evaluation**

- a. Less than significant impact.** Any proposed residential project built in conformance with the new “Residential Neighborhood” land use designation and “R-1-5” zoning will not violate any water quality standards or waste discharge requirements as described further in items c - e below.
- b. No impact.** The project will not deplete or otherwise affect groundwater supplies or recharge, since the project is not located within a groundwater recharge area. Future development of this site will be single-family residences (approximately three single-family residence). Therefore, future development on the site is not anticipated to result in the need to pump groundwater from the site and would not interfere with groundwater recharge.
- c. Less than significant impact.** As a result of the proposed General Plan Amendment and Rezoning, the drainage channel that traverses the width of the site could be filled as part of a future development of the property. Any future development of the project site dwellings will require a geotechnical report to evaluate the soils conditions for future construction. This evaluation would also include a more detailed evaluation of the functionality of the drainage channel and provide recommendations for filling the channel in a manner that would not impact surface or subsurface drainage flows nor reduce the structural stability of new improvements constructed at the channel. As a site design for a future land division has not



been prepared, it would be premature to conduct the geotechnical investigation at this time. Future development of the site would comply with the MRP and City of San José Policy 6-29, which would remove pollutants and reduce the rate and volume of runoff from the project site, reducing the potential for erosion or siltation on and off the site.

- d.-e. Less than significant impact.** Future construction related to redevelopment of the site will require demolition, pavement removal, and grading activities that could result in a temporary increase in erosion affecting the quality of stormwater runoff. This increase in erosion is expected to be minimal, due to the small size and gentle slope of the area beyond the main dwelling. Any future development of the project site will implement standard measures, as described below, to minimize erosion and water quality impacts.

Any future construction or demolition activity that results in land disturbance equal to or greater than one acre must comply with the Construction General Permit (CGP), administered by the State Water Resources Control Board (SWRCB). The CGP requires the installation and maintenance of Best Management Practices (BMPs) to protect water quality until the site is stabilized.

If the project is subject to the CGP, prior to the commencement of construction or demolition, the project must file a Notice of Intent (NOI) with the SWRCB and develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants associated with construction activities.

All development projects, whether subject to the CGP or not, shall comply with the City of San José's Grading Ordinance, which requires the use of erosion and sediment controls to protect water quality while the site is under construction. Prior to the issuance of a permit for grading activity occurring during the rainy season (October 15 to April 15), the project will submit to the Director of Public Works an Erosion Control Plan detailing BMPs that will prevent the discharge of stormwater pollutants.

#### Water Quality-Post Construction

The City of San José is required to operate under a Municipal Stormwater NPDES Permit to discharge stormwater from the City's storm drain system to surface waters. On October 14, 2009, the San Francisco Bay Regional Water Quality Control Board adopted the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP) for 76 Bay Area municipalities, including the City of San José.

The Municipal Regional Permit (NPDES Permit No. CAS612008) mandates the City of San José, through its development review authority, require stormwater management measures such as Site Design, Pollutant Source Control and Treatment measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff.

Provision C.3 of the MRP regulates the following types of development projects;

- projects that create or replace 10,000 square feet or more of impervious surface;



- Special Land Use Categories<sup>1</sup> that create or replace 5,000 square feet or more of impervious surface.

The MRP requires regulated projects to include Low Impact Development (LID) practices, such as pollutant source control measures and stormwater treatment features aimed to maintain or restore the site's natural hydrologic functions. The MRP also requires that stormwater treatment measures are properly installed, operated and maintained.

Future development will create or replace impervious surface. Based on its size and land use, future development will likely be required to comply with the LID stormwater management requirements of Provision C.3 of the Municipal Regional Permit.

The Municipal Regional Permit also requires regulated projects to include measures to control hydromodification impacts where the project would otherwise cause increased erosion, silt pollutant generation, or other adverse impacts to local rivers and creeks. Development projects that create and/or replace one acre or more of impervious surface and are located in a subwatershed or catchment that is less than 65% impervious, must manage increases in runoff flow and volume so that post-project runoff shall not exceed estimated pre-project rates and durations.

The City has developed policies that implement Provision C.3, consistent with the Municipal Regional Permit. The City's Post-Construction Urban Runoff Management Policy (6-29) establishes specific requirements to minimize and treat stormwater runoff from new and redevelopment projects. The City's Post-Construction Hydromodification Management Policy (8-14) establishes an implementation framework for incorporating measures to control hydromodification impacts from development projects.

Implementation of the following standard conditions, consistent with NPDES Permit and City Policy requirements, will reduce potential construction and post-construction impacts to surface water quality to less than significant levels:

#### Construction Measures

- Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) Construction General Permit, as follows:
  1. The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
  2. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities. The SWPPP shall identify current construction-period Best Management Practices, as described in the CASQA Construction Handbook (August 2011).

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<sup>1</sup> Special Land Use Categories are defined as uncovered parking areas (stand-alone or part of another use), restaurants, auto service facilities, and retail gasoline outlets.

- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- Typical measures that will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include but are not limited to:
  1. Utilize on-site sediment control BMPs to retain sediment on the project site;
  2. Utilize stabilized construction entrances and/or wash racks;
  3. Implement damp street sweeping;
  4. Provide temporary cover of disturbed surfaces to help control erosion during construction;
  5. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

#### Post-Construction

- The project shall comply with applicable provisions of the following City Policies: City Council Policy 6-29 Post-Construction Urban Runoff Management and City Council Policy 8-14 Post-Construction Hydromodification Management.
- Details of specific Site Design, Pollutant Source Control, and Stormwater Treatment Control Measures demonstrating compliance with Provision C.3 of the Municipal Regional Stormwater Permit (NPDES Permit Number CAS612008), shall be included in the project design, to the satisfaction of the Director of Planning, Building and Code Enforcement.

Future development of the site will be required to comply with the above standards, and therefore will reduce potential stormwater and erosion impacts to a less than significant level.

- f. **Less than significant impact.** As discussed under items c – e, above, future development of the site will be required to comply with all applicable stormwater and water pollution control requirements.
- g., h. **No impact.** Based on the effective FEMA Flood Insurance Rate Maps for the City of San Jose, the project site is not located within a 100-year floodplain and would therefore have no impact on 100-year flows and would not expose people to flood hazards associated with the 100-year flood.
- i. **No impact.** The project site is not located within an area that is subject to flooding due to dam failure.
- j. **No impact.** The site is not subject to seiche or tsunامي.

**Setting**

Two single-family dwellings are located on the project property. An outdoor swimming pool, adjoining patio and extensive ornamental landscaping are installed in the yard space between the two dwellings. The larger dwelling is located at the northeastern portion of the parcel with driveway connection to Almaden Road. The smaller dwelling is located at the northwestern portion of the site with frontage and driveway connection at Burnside Drive. The project parcel is surrounded by other developed properties. Adjoining properties are in single-family residential use, which is the predominant land use in the neighborhood. Other proximate land uses include the three neighborhood schools that are described in Sections 3.1 and 3.14. Almaden Expressway, which parallels Almaden Road, creates a defining neighborhood boundary along the southwestern edge of the neighborhood.

The majority of the surrounding neighborhood have General Plan Land Use/Transportation Diagram designations of “Residential Neighborhood” and “Rural Residential” land use, which reflects the dominant residential land use of the area (refer to Figure 11). Properties on the northwest side of Burnside Drive are designated “Residential Neighborhood,” while properties on the opposite side of Burnside, adjacent to the subject property is located, are “Rural Residential.”

Similar to the Envision San José 2040 General Plan General Plan Land Use/Transportation Diagram land use designations, the majority of the surrounding neighborhood is zoned “R-1-2” (Single-family Residential with a maximum density of 2 dwellings/acre), and “R-1-5” (Single-family Residential with a maximum density of 5 dwellings/acre) (refer to Figure 12). Properties on the northwest side of Burnside Drive are zoned “R-1-5.” Properties on the opposite side of Burnside, including the project parcel, are zoned “R-1-2.” The project parcel was zoned “R-1-1” for several years, but was rezoned to “R-1-2” in 2015. The property owner is now proposing to rezone this parcel to “R-1-5.” The zoning of most of the surrounding properties is consistent with their Envision San José 2040 General Plan General Plan Land Use/Transportation Diagram land use designations.

**Applicable Plans, Policies, and Regulations**

Many of the policies in the Envision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating land use impacts resulting from planned development within the City. All future development allowed by the proposed General Plan land use designations would be subject to the land use policies of the Envision San José 2040 General Plan, including the following:

*Policy LU-1.1:* Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

*Policy LU-1.2:* Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

*Policy LU-4.1:* Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José’s workers, residents, and visitors.

*Goal LU-8:* Maintain Appropriately Designated Employment Areas for a Mix of Industrial and Compatible Commercial Uses.

*Policy LU-9.5:* Require that new residential development be designed to protect residents from potential conflicts with adjacent land uses.

*Policy LU-9.7:* Ensure that new residential development does not impact the viability of adjacent employment uses that are consistent with the *Envision General Plan* Land Use / Transportation Diagram.

*Policy LU-9.17:* Limit residential development in established neighborhoods that are not identified growth areas to projects that conform to the site’s Land Use / Transportation Diagram designation and meet Urban Design policies in this Plan.

*Policy LU-11.6:* For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project. As an exception, for parcels already developed with more than one dwelling unit, new development may include up to the same number of dwelling units as the existing condition. The form of such new development should be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern.

In addition to the policies of the Envision San José 2040 General Plan, future development allowed by the proposed General Plan Land Use/Transportation Diagram land use designations would be required to comply with the San José Residential Design Guidelines and the Municipal Code, both containing parameters for setbacks, building design, landscaping, screening, and lighting, all of which are factors in ensuring land use compatibility.

### **Land Use Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2, 3, 4, & 14

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

### **Impacts Evaluation**

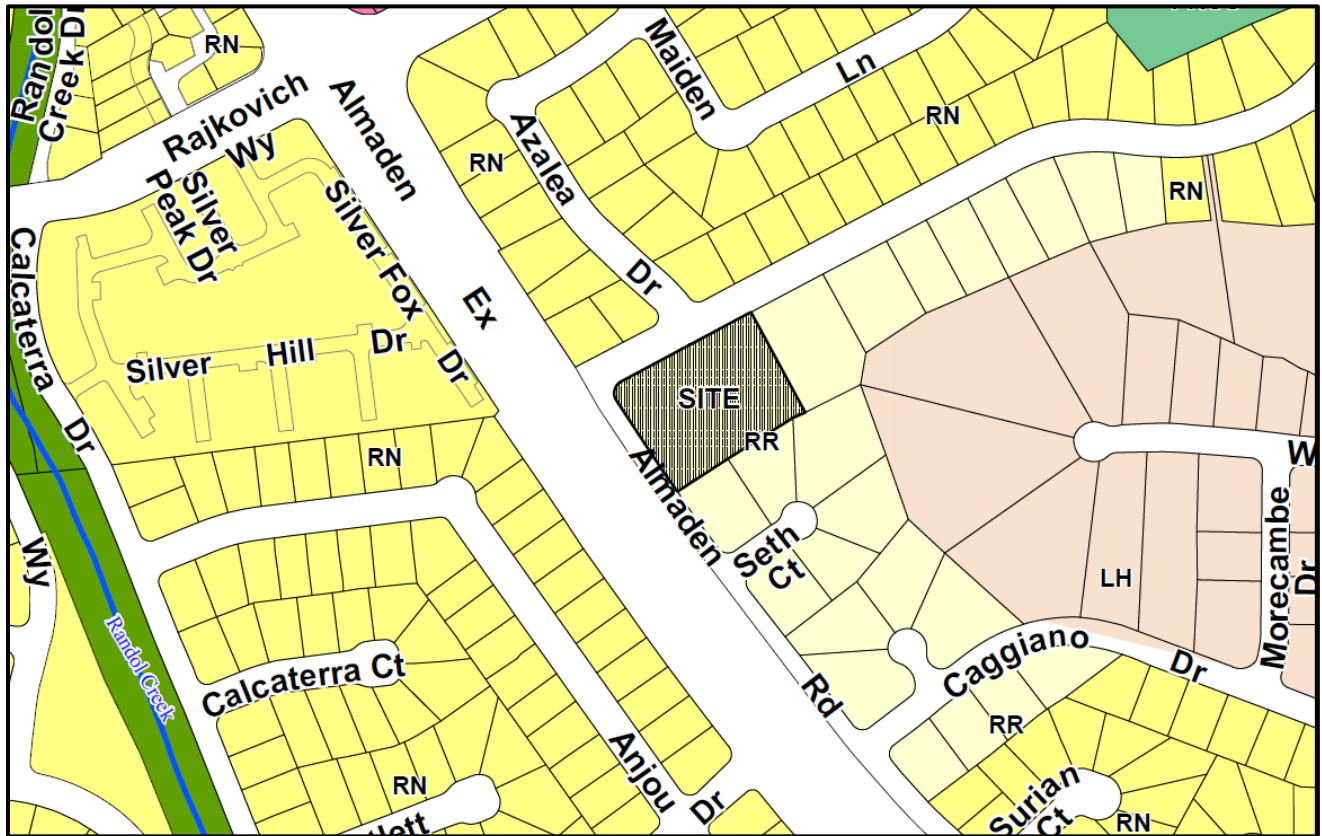
- a. No impact.** Projects that have the potential to physically divide an established community include new freeways and highways, major arterials streets, and railroad lines. Any future development of the site would provide infill housing within an existing residential neighborhood, and would therefore not physically divide an established community, but rather provide a completion of that community.
- b. Less than significant impact.** The project will change the project site's current General Plan Land Use/Transportation designation from "Rural Residential" to "Residential Neighborhood." This change will not conflict with General Plan policies and goals for the purpose of avoiding or mitigating an environmental effect.

The current site has two single-family residences and the project would change the General Plan land use and zoning district designations that would allow for the same type of development as the existing use. Future development of the site would most likely be single-family residences and is anticipated, based on size and location, to have a maximum of three single-family residences. If the proposed General Plan Amendment and Rezoning is approved, future development would not conflict with applicable land use plan, policy, or regulation. Future development would comply with all applicable policy, standards, and code to ensure all requirements such as setbacks, parking, height, and floor area ratio. Future development would also need to comply with existing neighborhood character and does not adversely impact neighboring residential uses. Therefore, a less than significant impact would occur as a result of the project.

- c. No impact.** The project site is subject to the Santa Clara Valley Habitat Conservation Plan. The project site is located within an area designated as Urban-Suburban under the Santa Clara Valley Habitat Plan. No sensitive species or habitat types are present on the project site and the project would not have any direct impacts to any of the covered species in the Habitat Plan. As discussed in Biological Resources Section, the project would conform to all applicable policies in the Santa Clara Valley Habitat Plan and, therefore, would be consistent with the Habitat Plan.

Figure 11

Existing General Plan Land Use Designations in the Project Vicinity



Source: City of San José website

The project property is shown with black cross-hatching. General Plan Land Use/Transportation Diagram land use designations in the area are defined below.

General Plan Land Use/Transportation Diagram land use designations

RR: Rural Residential land use

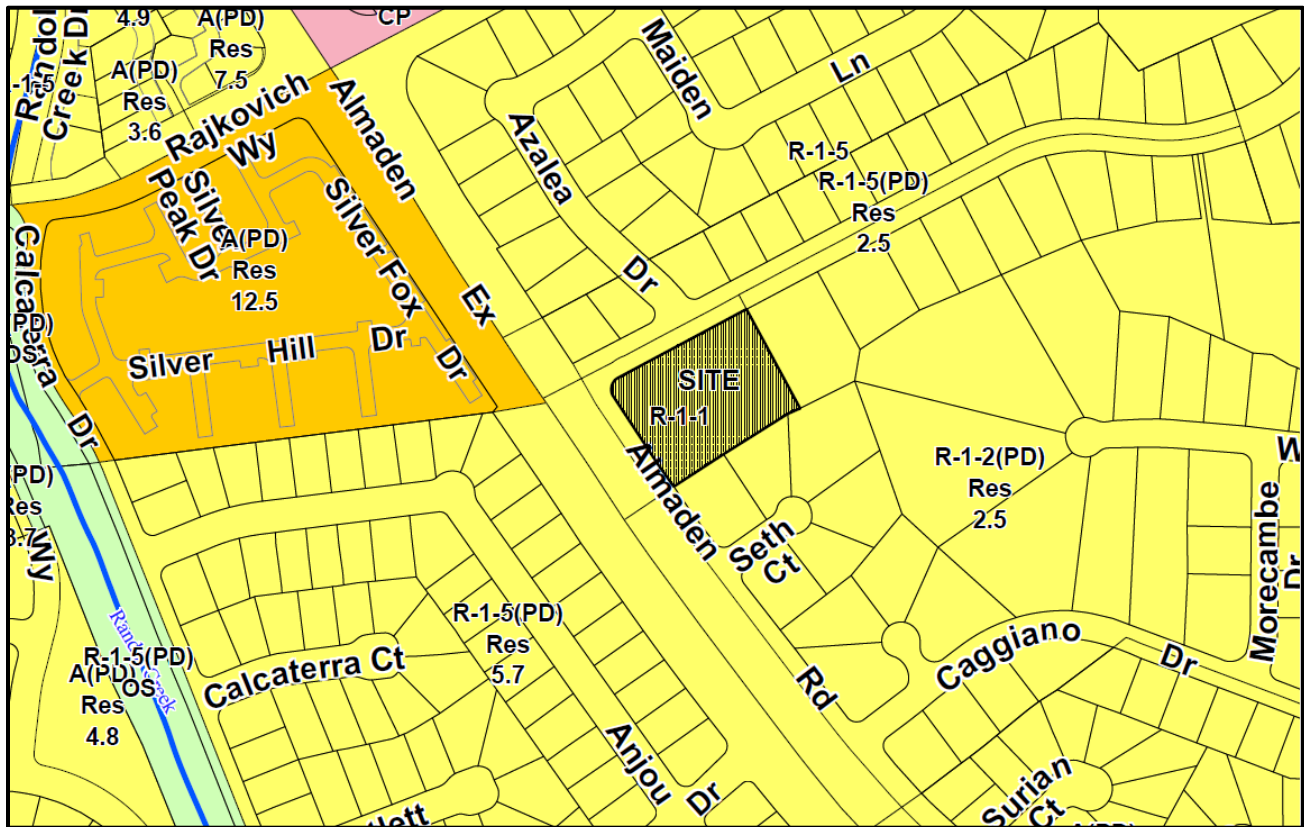
RN: Residential Neighborhood land use

LH: Lower Hillside Residential land use

Area shown in green: Open Space, Parklands and Habitat land use

Figure 12

Existing Zoning in the Project Vicinity



Source: City of San José website

The project property is shown with black crosshatching. Zoning in the area is defined below.

Zoning Districts

R-1-1: Single-family Residential (min. lot size = 43,560 sq. ft.)

R-1-2: Single-family Residential (min. lot size = 20,000 sq. ft.)

R-1-5: Single-family Residential (min. lot size = 8,000 sq. ft.)

A: Open Space and Agricultural

PD: Planned Development overlay



### 3.11 MINERAL RESOURCES

#### Setting

Under the Surface Mining and Reclamation Act of 1975 (SMARA), the State Mining and Geology Board has designated only the Communications Hill Area of San José as containing mineral deposits of regional significance for aggregate (Sector EE). There are no mineral resources in the project area. Neither the State Geologist nor the State Mining and Geology Board has classified any other areas in San José as containing mineral deposits that are of statewide significance or for which the significance requires further evaluation. Other than the Communications Hill area cited above, San José does not have mineral deposits subject to SMARA. The project site lies outside of the Communications Hill area.

#### Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Result in the loss of availability of a known mineral resource that will be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3 & 4
Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

#### Impacts Evaluation

**a. – b. No impact.** The project site is outside of the Communications Hill area, and will therefore not result in a significant impact from the loss of availability of a known mineral resource.

### 3.12 NOISE

#### Setting

The project site is located within a residential neighborhood but is located about 45 feet northeast from Almaden Expressway, a 4-lane arterial roadway with approximately 15,000 Average Daily Trips (based on 2005 counts performed by the City's Department of Transportation). A 6-foot high sound wall is located between Almaden Road and Almaden Expressway and reduces traffic noise generated on Almaden Expressway to the neighborhood. The site is surrounded by a single-family neighborhood. The closest non-residential use is Brett Harte Middle School located 898 feet northwest from the project site. It is not a significant noise generator.

## Applicable Plans, Policies, and Regulations

The City of San José Municipal Code restricts construction hours within 500 feet of a residential unit to the hours of 7:00 AM to 7:00 PM Monday through Friday, unless otherwise expressly allowed in a Development Permit or other planning approval.<sup>2</sup>

The Zoning Ordinance limits noise levels at any property line of residential properties to 55 dBA unless otherwise expressly allowed in a Development Permit or other planning approval. The Zoning Ordinance also limits noise emitted by stand-by/backup and emergency generators to 55 decibels at the property line of residential properties. The testing of generators is limited to 7:00 AM to 7:00 PM, Monday through Friday.

The Envision San José 2040 General Plan and the San José Municipal Code include the following criteria for land use compatibility and acceptable noise levels in the City:

*Policy EC-1.1:* Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review. Applicable standards and guidelines for land uses in San José include:

- Interior Noise Levels: The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. Appropriate site and building design, building construction and noise attenuation techniques should be included in new development to meet this standard.
- Exterior Noise Levels: The City's acceptable exterior noise level objective is 60 dBA DNL or less for residential and most institutional land uses (Table EC-1 of the General Plan). The acceptable exterior noise level objective is established for the City, except in environs of the San José International Airport and the Downtown, as described below:
  - For new multi-family residential projects and for the residential component of mixed-use development, use a standard of 60 dBA DNL in usable outdoor activity areas, excluding balconies and residential stoops and porches facing existing roadways. Some common use areas that meet the 60 dBA DNL exterior standard will be available to all residents. Use noise attenuation techniques such as shielding by buildings and structures for outdoor common use areas. On sites subject to aircraft overflights or adjacent to elevated roadways, use noise attenuation techniques to achieve the 60 dBA DNL standard for noise from sources other than aircraft and elevated roadway segments.
  - For single family residential uses, use a standard of 60 dBA DNL for exterior noise in private usable outdoor activity areas, such as backyards.

*Policy EC-1.2:* Considers noise impacts significant if a project would increase noise levels on adjacent sensitive land uses including residences as follows:

- Cause the DNL (Day-Night Sound Level) at noise sensitive receptors to increase by five dB DNL or more where the noise levels would remain "Normally Acceptable"; or

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<sup>2</sup> The Municipal Code does not establish quantitative noise limits for demolition or construction activities occurring in the City.

- Cause the DNL at noise sensitive receptors to increase by three dB DNL or more where noise levels would equal or exceed the “Normally Acceptable” level.

*Policy EC-1.7:* Requires construction operations to use best available noise suppression devices and techniques and limit construction hours near residential uses per the City’s Municipal Code. The City considers significant construction noise impacts to occur if a project located within 500 feet of residential uses or 200 feet of commercial or office uses would:

- Involve substantial noise generating activities (such as building demolition, grading, excavation, pile driving, use of impact equipment, or building framing) continuing for more than 12 months.

*Policy EC-1.9:* Noise studies are required for land use proposals where known or suspected loud intermittent noise sources occur which may impact adjacent existing or planned land uses. For new residential development affected by noise from heavy rail, light rail, BART or other single-event noise sources, mitigation will be implemented so that recurring maximum instantaneous noise levels do not exceed 50 dBA Lmax in bedrooms and 55 dBA Lmax in other rooms.

*Policy EC-1.14:* Require acoustical analyses for proposed sensitive land uses in areas with exterior noise levels exceeding the City’s noise and land use compatibility standards to base noise attenuation techniques on expected General Plan traffic volumes to ensure land use compatibility and General Plan consistency.

*Policy EC-2.1:* Near light and heavy rail lines or other sources of ground-borne vibration, minimize vibration impacts on people, residences, and businesses through the use of setbacks and/or structural design features that reduce vibration to levels at or below the guidelines of the Federal Transit Administration. Require new development within 100 feet of rail lines to demonstrate prior to project approval that vibration experienced by residents and vibration sensitive uses would not exceed these guidelines.

In addition to the City’s noise standards, Title 24, Part 2, of the California Building Code limits indoor noise from outdoor sources to DNL 45 dB in habitable rooms of attached housing. Projects exposed to an outdoor DNL greater than 60 dB require an acoustical analysis during the design phase showing that the proposed design will limit outdoor noise to the prescribed allowable interior level. Additionally, if windows must be closed to meet the interior standard, the design of future houses must also include a ventilation or air-conditioning system to provide a habitable interior environment. Title 24 Part 11, the CALGreen code, includes prescriptive sound insulation requirements for non-residential projects exposed to noise levels that regularly exceed 65 dB.

## Environmental Checklist

Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 & 3
b. Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
f. For a project within the vicinity of a private airstrip, will the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

## Impacts Evaluation

- a. **Less than significant impact.** As previously discussed in Section 4.0, on December 17, 2015, the California Supreme Court issued an opinion in “CBIA vs. BAAQMD” holding that CEQA is primarily concerned with the impacts of a project on the environment and generally does not require agencies to analyze the impact of existing conditions on a project’s future users or residents unless the project risks exacerbating those environmental hazards or risks that already exist. In light of this ruling, the effect of existing ambient noise on future users or residents of the project would not be considered an impact under CEQA. General Plan polices under Goal EC-1(EC-1.1-1.7), however, require that existing ambient noise levels be analyzed for the proposed type of uses and that noise attenuation be incorporated into the project in order to meet the interior and exterior acceptable noise levels. The analysis of noise exposure for future project residents discloses information on the project’s compliance with General Plan polices.

The project site is adjacent to the Almaden Road and the primary noise for this area is vehicle traffic along the Almaden Road. According to the General Plan 2040

Environmental Noise Assessment 2035 Traffic Noise Contours in the Almaden Planning Area, the noise directly next to the Almaden Road is estimated to be approximately between 60-65 dBA DNL. Based on the location, size, neighborhood pattern and density, the proposed General Plan Amendment and Rezoning may allow for a future subdivision that would result in a maximum of three residential lots. With yard setbacks, these dwellings could be located as close as 65 feet from Almaden Expressway, which generates substantial traffic noise. However, the existing sound wall reduces traffic noise impacts to the site to less than significant levels. Future development of the site will be required to comply with Envision San José 2040 noise Policies EC-1.1, EC-1.2, EC-1.9, and EC-1.14. In addition, General Plan Policy EC-1.1 requires the preparation of an acoustical analysis to determine appropriate noise attenuation measures to ensure interior noise levels of 45 dBA DNL for residential uses. Implementation of General Plan policies at the Planning permit and building permit phases will ensure future residents on the project site will not be exposed to excessive interior noise levels.

- b. No impact.** The site is not located near any significant generators of groundborne vibration and any future development of the site with single-family residences will not result in new groundborne vibration. In addition, future development on the site under the proposed General Plan land use and zoning district designations would comply to measures to reduce construction noise and vibration levels, per the City of San Jose policies (Refer to 3.12-d below).
- c. Less than significant impact.** Due to the size and location of the site, future development of the site with additional single-family residences is not anticipated to increase substantially and would not result in a significant increase in additional noise above existing ambient noise levels. Compliance with General Plan Policies EC-1.2 and EC-1.7 will reduce any potential increase in ambient noise to a less than significant level.
- d. Less than significant impact.** Future development under the proposed land use shall implement the following measures to reduce construction noise and vibration levels consistent with the City of San José policy:

  - Construction hours within 500 feet of residential uses will be limited to the hours of 7:00 a.m. and 7:00 p.m. weekdays, with no construction on weekends or holidays.
  - Utilize ‘quiet’ models of air compressors and other stationary noise sources where technology exists.
  - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
  - Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;
  - Locate staging areas and construction material areas as far away as possible from adjacent land uses;
  - Prohibit all unnecessary idling of internal combustion engines;
  - The contractor shall identify a noise control ‘disturbance coordinator’ and procedure for coordination with the adjacent noise sensitive uses so that

construction activities can be scheduled to minimize noise disturbance. This plan shall be made publicly available for interested community members.

- The disturbance coordinator will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site will be posted and included in the notice sent to neighbors regarding the construction schedule.

Therefore, as future development will be required to comply with Standard Project Conditions for construction noise in the Municipal Code and General Plan Policy EC-1.7, future construction noise and vibration would be less than significant level.

- e., f. No impact.** The project site is not located within the boundaries of an airport land use plan, and is not located within two miles of any public use airport or private airstrip.

### 3.13 POPULATION AND HOUSING

#### Setting

The project site is currently developed with a preschool, and is surrounded by an existing single-family residential neighborhood.

#### Environmental Checklist

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 & 8
<b>b.</b> Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>c.</b> Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

#### Impacts Evaluation

- a. Less than significant impact.** The proposed General Plan Amendment and Rezoning would change the site's General Plan Land Use/Transportation Diagram land use

designations to “Residential Neighborhood” and zoning to “R-1-5”. Future development in accordance with the proposed zoning district would allow development of up to 5 dwelling units per acre, or at a density similar to the single-family portion of the neighborhood on the opposite site of Burnside Drive. Therefore, redevelopment of the site under the proposed General Plan land use and zoning district designations at these densities will not induce substantial population growth above the existing number of residents on the site.

- b., c. No impact.** The site is developed with two single-family dwellings. While future development of the site will remove the smaller dwelling, it will be replaced with two or three new dwellings.

### **3.14            PUBLIC SERVICES**

#### **Setting**

The project site is located within the City of San José City limits and is served by the San José Fire Department, the San José Police Department, and the San José Unified School District. The fire station closest to the project site is Station 28 located at 19911 McKean Road with a road travel distance of 1.5 miles southeast of the site. Public elementary school education for the neighborhood is provided at Greystone Elementary School which is located 1,003 feet northeast of the site at 6982 Shearwater Drive. The project site is within attendance area of Bret Harte Middle School which is located 898 feet northwest of the site at 7050 Bret Harte Drive and Leland High School located 1,426 feet northwest of the site at 6677 Camden Avenue.

#### **Applicable Plans, Policies, and Regulations**

All future development allowed by the proposed General Plan land use designation will be subject to the Envision San José 2040 General Plan policies that offset the demand created by residential development upon schools and parkland, respectively:

*Policy FS-5.6:* When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.

*Policy FS-5.7:* Encourage school districts and residential developers to engage in early discussions regarding the nature and scope of proposed projects and possible fiscal impacts and mitigation measures early in the project planning stage, preferably immediately preceding or following land acquisition.

*Policy PR-1.1:* Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.



*Policy PR-1.2:* Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

*Policy PR-1.3:* Provide 500 square feet per 1,000 population of community center space.

*Policy ES-3.8:* Use the Land Use / Transportation Diagram to promote a mix of land uses that increase visibility, activity and access throughout the day and to separate land uses that foster unsafe conditions.

*Policy ES-3.11:* Ensure that adequate water supplies are available for fire-suppression throughout the City. Require development to construct and include all fire suppression infrastructure and equipment needed for their projects.

### **Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					8, 10, 11, 12, 14 & 15
1. Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2. Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. Other Public Facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

### **Impacts Evaluation**

- a. Less than significant impact.** The project site is located in an urbanized area of San José, and well served by existing fire, police, school, park and other public facilities. The site is served by Fire Station 28 located about 1.5 miles southeast of the site. No additional fire or police personnel or equipment are necessary to serve the proposed project.

As required by California Government Code Section 53080, any future development which results in an increase in the number of housing units will be required to pay a

school impact fee to offset the increased demands on school facilities caused by the project. Therefore, future development of this site under the proposed General Plan land use and zoning district designations would comply with the school impact fee and would have a less than significant impact on school facilities.

The closest city parks are the Almaden Lake Regional Park, a 65-acre park that includes Almaden Lake and a linear extension along Alamitos Creek located 3,379 feet (0.64 mile) north and east of the site; Carrabelle Park, a 2.9-acre park, located 3,000 feet northeast of the site and two smaller parks on the opposite side of Almaden Expressway. The 16.8-acre Cathedral Oaks Park at Falcon Knoll is located 2,000 feet south west of the site. the 4.2-acre Glenview Park on McCall Drive is located 2,240 feet west of the site.

Any future development of the project site may result in an increase in residents and therefore an increase in park users. However, the assessment of park in-lieu fees at the time of redevelopment will reduce any additional use to a less than significant level.

### **3.15            RECREATION**

#### **Setting**

The project site neighborhood contains several City parks. The closest parks on the same side of the Almaden Expressway, as the sites are Carrabelle Park and the linear open space portion of Almaden Lake Regional Park. Two other parks described in the previous section are located as shorter distance away on the opposite side of Almaden Expressway. Carrabelle Park on Camden Avenue provides a playground and picnic facilities. Almaden Lake Park provides hiking trails, boating and facilities for picnicking and bocce ball and horseshoes. Athletic fields are provided at the three public schools in the neighborhood.

#### **Applicable Plans, Policies, and Regulations**

All future development allowed by the proposed General Plan land use designation (“Residential Neighborhood”) and zoning district designation (“R-1-5”) will be subject to the City of San José Parkland Dedication Ordinance (PDO) (Municipal Code Chapter 19.38) and Park Impact Ordinance (PIO). These ordinances require residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project in the City is required to conform to both the PDO and PIO. Furthermore, new residential development shall comply with the following Envision San José 2040 General Plan Policies regarding recreation:

*Policy PR-1.1:* Provide 3.5 acres per 1,000 population of neighborhood/community serving parkland through a combination of 1.5 acres of public park and 2.0 acres of recreational school grounds open to the public per 1,000 San José residents.

*Policy PR-1.2:* Provide 7.5 acres per 1,000 population of citywide/regional park and open space lands through a combination of facilities provided by the City of San José and other public land agencies.

*Policy PR-1.3:* Provide 500 square feet per 1,000 population of community center space.

*Policy PR-2.5:* Spend, as appropriate, PDO/PIO fees for community serving elements (such as soccer fields, dog parks, sport fields, community gardens, community centers, etc.) within a 3-mile radius of the residential development that generates the PDO/PIO funds.

### **Environmental Checklist**

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility will occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 5, 12
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

### **Impacts Evaluation**

- a. **Less than significant impact.** The City of San José has adopted the Parkland Dedication Ordinance (PDO) (Chapter 19.38) and Park Impact Ordinance (PIO) requiring residential developers to dedicate public parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO. The acreage of parkland required is based upon the Acreage Dedication Formula outlined in the Parkland Dedication Ordinance.

The proposed General Plan Amendment and Rezoning would allow future development of the site that could increase the number of residents on the site. Any future additional residential units would add to the residential population using nearby recreational facilities. However, the project is not expected to increase the use of existing parks such that substantial deterioration would occur or be accelerated.

- b. **No impact.** Any future development of the site in conformance with the proposed “Residential Neighborhood” General Plan land use designation and “R-1-5” zoning

district would result in a small net increase in residents. This small increase is not anticipated to result in the need for new recreational facilities.

### **3.16                    TRANSPORTATION**

#### **Setting**

The project site is a corner lot located on Almaden Road and Burnside Drive, two local streets. The site is 1,016 feet from Via Valiente which provides connection to Almaden Expressway, the primary arterial roadway in the area.

Regional access is provided by State Route 85 and Almaden Expressway. Route 85 is a 6-lane freeway that connects regional traffic between Gilroy at the south, and Mountain View at the north. Almaden Expressway intersects with State Route 85, and is the primary arterial of the Almaden Valley area.

Roadside improvements in the Almaden Road right-of-way includes curb, gutter and sidewalk on the northeast side of the street; however these improvements stop at the project property line and do not continue along the project parcel frontage. Burnside Drive has curb, gutter and separated sidewalk along both sides of the street except at the frontage of the project property. Neither street contains a dedicated bicycle lane. Transit service is provided by the Santa Clara Valley transportation Authority (VTA). The VTA's Almaden Light Rail and Park and Ride Station is located on Coleman Road 2.9 miles from the project property.

#### **Applicable Plans, Policies, and Regulations**

Various policies in the Envision San José 2040 General Plan have been adopted for the purpose of avoiding or mitigating transportation and traffic impacts resulting from planned development within the City. All future development allowed by the proposed land use designation would be subject to the transportation policies of the City's General Plan, including the following:

*Policy CD-2.10:* Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in Growth Areas.

*Policy CD-3.3:* Within new development, create and maintain a pedestrian-friendly environment by connecting the internal components with safe, convenient, accessible, and pleasant pedestrian facilities and by requiring pedestrian connections between building entrances, other site features, and adjacent public streets.

*Policy CD-3.6:* Encourage a street grid with lengths of 600 feet or less to facilitate walking and biking. Use design techniques such as multiple building entrances and pedestrian paseos to improve pedestrian and bicycle connections.

*Policy TR-5.3:* The minimum overall roadway performance during peak travel periods should be level of service “D” except for designated areas. How this policy is applied and exceptions to this policy are listed in the following bullets:

- **Vehicular Traffic Mitigation Measures.** Review development proposals for their impacts on the level of service and require appropriate mitigation measures if development of the project has the potential to reduce the level of service to “E” or worse. These mitigation measures typically involve street improvements. Mitigation measures for vehicular traffic should not compromise or minimize community livability by removing mature street trees, significantly reducing front or side yards, or creating other adverse neighborhood impacts.
- **Area Development Policy.** An “area development policy” may be adopted by the City Council to establish special traffic level of service standards for a specific geographic area which identifies development impacts and mitigation measures. These policies may take other names or forms to accomplish the same purpose. Area development policies may be first considered only during the General Plan Annual Review and Amendment Process; however, the hearing on an area development policy may be continued after the Annual Review has been completed and the area development policy may thereafter be adopted or amended at a public meeting at any time during the year.
- **Small Projects.** Small projects may be defined and exempted from traffic analysis per the City’s transportation policies.
- **Special Strategy Areas.** In recognition of the unique characteristics and particular goals of Special Strategy Areas, intersections identified as Protected Intersections within these areas, may be exempt from traffic mitigation requirements. Special Strategy Areas are identified in the City’s adopted General Plan and include Urban Villages, Transit Station Areas, and Specific Plan Areas.

*Policy TR-9.1:* Enhance, expand and maintain facilities for walking and bicycling, particularly to connect with and ensure access to transit and to provide a safe and complete alternative transportation network that facilitates non-automobile trips.

## **Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 5, & 14

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

## **Impacts Evaluation**

- a., b. Less than significant impact.** Per the City’s Transportation Level of Service Policy (Council Policy 5-3), single-family developments of 15 units or less are considered, individually and cumulatively, to not cause a significant degradation in transportation level of service. In addition, the City of San José has reviewed and determined that the proposed 2016 General Plan amendments on file for this cycle, including this project, would not meet the threshold required for a cumulative GPA traffic analysis because the projected increase in traffic volume for all the proposed GPAs result in less than 250 peak hour trips. Therefore, the proposed project would not result in significant cumulative traffic impacts. Due to the small size of the project site and the density of surrounding neighborhoods, any future development on the site in conformance with the proposed “Residential Neighborhood” General Plan land use and “R-1-5” zoning district designations will result in a net increase of less than 15 units, and therefore will not have a significant effect on traffic.
- c. No impact.** The project site is located more than two miles from any airport or airstrip, and future development will be between one and two-and-a-half stories, so no potential hazards will exist to air traffic.
- d. Less than significant impact.** The project will not substantially increase hazards due to a design feature or incompatible uses, as any future development of the site will be

required to comply with all applicable Department of Public Works guidelines for new driveways.

- e. **Less than significant impact.** Any future development of the site will be reviewed by the San José Fire Department and the Department of Public Works to ensure adequate emergency access.
- f. **Less than significant impact.** Future development of the site under the proposed “Residential Neighborhood” General Plan land use and “R-1-5” zoning district designations will comply with adopted policies for pedestrian, bicycle, and transit use.

### 3.17 UTILITIES AND SERVICE SYSTEMS

#### **Setting**

The site is located within the Urban Services Area. Utilities and services are furnished to the project site by the following providers:

- Wastewater Treatment: treatment and disposal provided by the San José/Santa Clara Water Pollution Control Plant (WPCP); sanitary sewer lines maintained by the City of San José
- Water Service: San José Water Company
- Storm Drainage: City of San José
- Solid Waste: Various
- Natural Gas & Electricity: PG&E

#### **Applicable Plans, Policies, and Regulations**

Various policies in the City’s General Plan have been adopted for the purpose of avoiding or mitigating utility-related impacts resulting from planned development within the City. All future development allowed by the proposed land use designations will be subject to the utilities and services policies of the Envision San José 2040 General Plan, including the following:

*Policy MS-3.2:* Promote use of green building technology or techniques that can help reduce the depletion of the City’s potable water supply, as building codes permit. For example, promote the use of captured rainwater, graywater, or recycled water as the preferred source for non-potable water needs such as irrigation and building cooling, consistent with Building Codes or other regulations.

*Policy MS-3.3:* Promote the use of drought tolerant plants and landscaping materials for non-residential and residential uses.

*Action EC-5.16:* Implement the Post-Construction Urban Runoff Management requirements of the City’s Municipal NPDES Permit to reduce urban runoff from project sites.



In addition to the above-listed policies of the Envision San José 2040 General Plan, new development in San José is required to comply with programs that mandate the use of water-conserving features and appliances and the City's Integrated Waste Management Program, which minimizes solid waste.

### **Environmental Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
<b>a.</b> Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5, 8, 14 & 15
<b>b.</b> Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>c.</b> Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>d.</b> Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>e.</b> Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>f.</b> Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<b>g.</b> Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

### **Impacts Evaluation**

**a. – g. Less than significant impact.** Since the maximum allowable future development of the site under the proposed General Plan land use and zoning district designations will result in a maximum net increase of one residential unit on the site, the proposed General Plan Amendment and Rezoning would not require construction of new facilities for wastewater treatment, storm drainage, water, or waste disposal because the subject site is

located within the City of San José Urban Service Area where such facilities exist, and have the capacity to serve the proposed project.

### 3.18 MANDATORY FINDINGS OF SIGNIFICANCE

#### Mandatory Findings Environmental Checklist

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Checklist Source(s)
a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1--15
b. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

- a. **Less than significant impact.** As discussed in the individual sections throughout this Initial Study, future development of the project site with residential uses under the proposed land use designation would not degrade the quality of the environment with the implementation of measures in accordance with the City's General Plan and Municipal Code and other applicable plans, policies, regulations, and ordinances. Based on the analysis provided in this Initial Study, the proposed General Plan Amendment and Rezoning will not substantially degrade or reduce wildlife species or habitat, or impact historic or other cultural resources with the standard measures identified within the body of this Initial Study. In addition, any future development of the site under the proposed General Plan land use ("Residential Neighborhood") and the zoning district designations

(“R-1-5”) would have its own environmental review and would comply with all applicable State, regional, and local policies, regulations, and laws.

- b. – c. Less than significant impact.** The proposed General Plan land use change from “Rural Residential” to “Residential Neighborhood” allows for a development of up to eight dwelling unit per acre if it conforms to the neighborhood pattern. In addition, the proposed rezoning of the property from “R-1-2” to “R-1-5” would allow for a maximum of five single-family residences on the site. However, based on the size, neighborhood pattern and density of the property, future development anticipate the subdivision of the lot into three lots to facilitate one additional single-family residence on an existing parcel that current has two existing single-family residences (three total). Therefore, based on the scope of the proposed project and based on the analysis provided in this Initial Study, the proposed General Plan Amendment and Rezoning will not significantly contribute to cumulative impacts, nor will it cause substantial adverse effects on humans.

## SECTION 4.0 REFERENCES

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1. Professional judgment and expertise of the environmental specialist preparing this assessment, including an on-site inspection of the site and surrounding properties and physical conditions.
2. Staff report prepared by the City of San José for a Rezoning project for the subject property in 2015.
3. City of San José. *Envision San José 2040 General Plan*.
4. City of San José. Municipal Code, Title 20, Zoning Ordinance
5. *Expanded Initial Study for the Guadalupe Trail Master Plan*, prepared by Cypress Environmental and Land Use Planning for the City of San José, February 2004
6. Santa Clara Valley Habitat Conservation Plan website, <http://scv-habitatagency.org/>
7. Santa Clara County Hazard Mitigation Plan, September 1, 2011.
8. Demographic Trends Census Brief, City of San José website, <http://planning.sanjoseca.gov/planning/census/briefs/household.asp>
9. Residential Garbage, Recycling and Yard Trimmings Haulers, City of San José website, <http://www.sanjoseca.gov/index.aspx?NID=3359>
10. Fire Department, City of San José website, <http://www.sanjoseca.gov/index.aspx?NID=197>
11. Police, City of San José website, <http://www.sjpd.org/>
12. Parks, Recreation and Neighborhood Services, City of San José website, <http://www.sanjoseca.gov/index.aspx?NID=204>
13. Visit Our Schools, San José Unified School District website, <http://www.sjUSD.org/schools/visit-our-schools/>
14. Google Earth mapping
15. Debbie Basher, City of San José, Department of Environmental Services, personal communication, February 18, 2015.

## SECTION 5.0 AUTHORS AND CONSULTANTS

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